

AGENDA

Hampton Roads Transportation Accountability Commission

Regular Commission Meeting *In Person Meeting*

**September 21, 2023
12:30 p.m.**

- 1. Call to Order and Roll Call**
- 2. Approval of Agenda**
- 3. Public Comment Period**
 - *Limit 5 minutes per individual*
- 4. Chair's Comments**
 - A. Presentation of Boring Machine Model**
- 5. Consent Items**
 - *Recommended Action: Approval*
 - A. Minutes of the June 15, 2023 Annual Organizational Meeting (Attachment 5A)**
 - B. Fiscal Year 2023 Annual Report to the Joint Commission on Transportation Accountability Relating to the Hampton Roads Transportation Fund (Attachment 5B)**
 - C. HRTAC Investment Policy - Update re: Verification of Deposits (Attachment 5C)**
 - D. I-64/Denbigh Boulevard Interchange Project, Phase 2 Preliminary Engineering and Right of Way (UPC 123656) Standard Project Agreement (Attachment 5D)**
 - E. I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement (Attachment 5E)**
 - F. Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement Second Amendment (Attachment 5F)**
- 6. Action Items**
 - *Recommended Action: Discussion/Endorsement/Recommendation/Direction*
 - A. Fiscal Year 2023 Audited Financial and Compliance Report (Attachment 6A) – Finance Committee Chair Hipple, Executive Director Page and Michael Garber PBMares LLC - **Recommended Action:** Approval**
 - B. 2023 HRTF Backed TIFIA Loan and Associated Bond Anticipation Note Authorizations – HRELN Segment 4C, Resolution 2023-02 (Attachment 6B) – Finance Committee Chair Hipple, Executive Director Page, Bond Counselor Ballou, General Counselor Inglima, and Financial Advisor Shan PFM FA - **Recommended Action:** Approval**

- C. **Amended and Restated Project Agreement for Funding and Administration for the I-64 Hampton Roads Bridge-Tunnel Expansion Project –Actions in Support of VDOT’s Efforts Re: Project Issues – To Be Addressed in Resolution 2023-03 – Closed Session (Attachment 6C)** – Executive Director Page, General Counselor Inglima, and Financial Advisor Shan, PFM FA – **Recommended Action:** Discussion/Action

7. Information Items

- A. **HRTAC Monthly Financial Report – (Attachment 7A)** – Finance Committee Chair Hipple
- B. **VDOT Project Updates - (Attachment 7B)** – VDOT Hampton Roads Administrator Hall
- C. **HRTAC Regular Meeting – December 14, 2023, 12:30 p.m.**

8. Adjournment

5. A. Minutes of the June 15, 2023 Annual Organizational Meeting

Agenda Item 5A
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

Re: June 15, 2023 Annual Organizational Meeting Minutes

Recommendation:

The Commission is asked to approve the Commission's June 15, 2023 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 15, 2023.

**Hampton Roads Transportation
Accountability Commission (HRTAC)
Summary Minutes of the June 15, 2023 Annual Organizational Meeting**

The Hampton Roads Transportation Accountability Commission (HRTAC) Annual Organizational Meeting was called to order at 12:31 p.m. with the following in attendance:

HRTAC Members in Attendance:

Mayor Donnie Tuck, HA
Mayor Rick West, CH
Supervisor William McCarty, IW
Supervisor Michael Hipple, JC
Mayor Kenneth Alexander, NO
Mayor Shannon Glover, PO
Mayor Gordon Helsel, PQ
Mayor Michael Duman, SU

Mayor Bobby Dyer, VB
Supervisor Thomas G. Shepperd, YK
Mayor Doug Pons, WM
Delegate Amanda Batten, VGA
Delegate Anne Ferrell Tata, VGA
Senator Monty Mason, VGA
Senator Louise Lucas VGA

HRTAC Executive Director

Kevin Page

HRTAC Ex-Officio Members in Attendance:

Chris Gullickson, VPA

Other Participants:

Chris Price, CH
Jason Mitchell, HA
Scott Stevens, JC
John Stevenson, NO
J. Randall Wheeler, PQ
Brian Swets, PO
Brian Thrower, SH
Al Moor, SU

Patrick Duhaney, VB
Andrew Trivette, WM
Wayne Coleman, CTB
William Harrell, HRT
District Engineer Chris Hall, VDOT
Thelma Drake, VIPRA
Tom Inglima, Willcox & Savage

HRTAC Voting Members Absent:

Mayor Robert Cutchins, FR
Council Member Cleon Long (in for Phillip Jones), NN

Supervisor Christopher Cornwell, SH
Delegate Barry Knight, VGA

HRTAC Ex-Officio Members Absent:

Board Member Frederick T. Stant, III, CTB
Director Jennifer Debruhl, DRPT

Commissioner Stephen Brich, VDOT

Others Recorded Attending:

David Westcott Jr. (CH); Jerri Wilson (NN); Jessica Dennis (NO); Andrew Damon (VB); Will Smith (Senator L. Louise Lucas's Office); Jim Calpin (Bank of America); Noelle Pinkard (HRT); Ashlynn Herring (POV); Ed Reed (Two Capitols Consulting VB/HPT); Diane Kaufman (US

Senator Tim Kaine's Office); Todd Halacy (VDOT); Colleen Gregory-Gettel (Veterans Reporters); Mark Burns (Wells Fargo); Courtney Whelan (Willcox & Savage); Rob Cofield, Danetta Jankosky, Andrew Margason, Twanisha Murray, Joe Turner, Chris Vaigneur, Sheila Wilson (HRPDC); Lynn Coen, Jennifer Hodnett (HRTAC); Bob Crum, John Mihaly, Pavithra Parthasarathi, Dimitry Rekhter, (HRTPO)

Call to Order and Roll Call

Chair Donnie Tuck called the meeting to order at 12:30 p.m. and a roll call of all Members was taken in order to confirm a quorum:

Mayor Rick West: Present
Mayor Robert Cutchins : No Response
Chair Donnie Tuck: Present
Supervisor William McCarty: Present
Supervisor Michael Hipple: Present
Council Member Cleon Long: No Response
Mayor Kenneth Alexander: Present
Mayor Gordon Helsel: Present
Mayor Shannon Glover: Present
Supervisor Christopher Cornwell: No Response
Mayor Michael Duman: Present
Mayor Robert Dyer: Present
Mayor Doug Pons: Present
Supervisor Thomas Shepperd: Present
Senator Louise Lucas: Present
Senator Monty Mason: Present
Delegate Barry Knight: No Response
Delegate Amanda Batten: Present
Delegate Anne Ferrell Tata: Present
CTB Board Member Frederick Stant: No Response
VDOT District Engineer Christopher Hall: Present
Director Jennifer Debruhl: No Response
Mr. Chris Gullickson: Present

The quorum was confirmed by Mr. John Mihaly.

Approval of Agenda

Supervisor Michael Hipple Moved to approve the agenda, Seconded by Mayor Rick West. 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

Chair Tuck indicated that he would be making his Chair comments later in the meeting.

Consent Items

- A. Minutes of the March 16, 2023 Regular Meeting
- B. HRTAC FY2024 Administrative and Project Development Budget
- C. HRTAC FY2024-FY2030 Plan of Finance Update – Six Year Operating and Capital Program of Projects for the Region’s High Priority Projects and the Hampton Roads Regional Transit Fund
- D. HRTAC 2045 Long Range Plan of Finance Update for the Region’s High Priority Projects and the Hampton Roads Regional Transit Fund Update
- E. FY2024 HRTAC Meeting Schedule
- F. Amended and Restated Project Agreement for Funding and Administration for the I-64 Hampton Roads Bridge Tunnel Expansion Project – Extension of Time re: Plenary Authority to Take Certain Actions in Support of VDOT Efforts RE: Project Issues

Supervisor Hipple Moved to approve the consent agenda items; Seconded by Mayor Bobby Dyer. The Motion Carried.

Action Items

A. Election of FY2024 Officers of the Commission

Tom Inglima, HRTAC General Counsel, reminded the Commission of the voting procedures for electing the Chair and Vice Chair of the Commission in accordance with the Bylaws of the Commission. He stated that a Nominating Committee had been appointed to present a slate of officers and explained the process for making additional nominations.

Supervisor Hipple, Nominating Committee Chair, stated that the Committee’s recommended slate of officers for Fiscal Year 2024 was Dr. Richard “Rick” West, Mayor of Chesapeake, for Chair, and Doug Pons, Mayor of Williamsburg, for Vice Chair.

No additional nominations were made.

Mayor Kenneth Alexander Moved to close the FY2024 Slate of Officers Nominations; Seconded by Senator Monty Mason.

Mayor Dyer Moved that the Commission approve Dr. Richard “Rick” West, Mayor of Chesapeake, as Chair, and Doug Pons, Mayor of Williamsburg, as Vice Chair; Seconded by Mayor Michael Duman. The Motion Carried.

Chair West made a presentation to the Commission on the expansive career of Mayor Tuck and highlighted his numerous accomplishments and achievements.

Kevin Page, HRTAC Executive Director, presented Mayor Tuck with a Resolution of Appreciation for his service as HRTAC Chair and reiterated his dedication to the Region and hard work for continued transportation investments in Hampton Roads.

B. Hampton Roads Regional Transit Fund – Transportation District Commission of Hampton Roads FY2024 Application for Funding

Executive Director Page reminded the Commission that HRTAC manages the Hampton Roads Regional Transit Fund (HRRTF). He explained that the Transportation District Commission of Hampton Roads, doing business as Hampton Roads Transit (HRT), sets forth projects in its long range transportation plan and then submits applications to HRTAC for disbursements of funds from the HRRTF for certain projects.

He stated that the Fiscal Year 2024 application includes, but is not limited to, funding for purchasing new buses for the 757 Express Line, for completion of the Parks Avenue Garage and for the Regional Backbone service.

William Harrell, HRT Chief Executive Officer, noted that the HRRTF has helped immensely and indicated that it has improved public transportation in the region.

Mayor Dyer Moved that the Commissioners of the Member Jurisdictions of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach; i. Approve the FY2024 Application for Funding made by the Transportation District of Hampton Roads; ii. Authorize the Chair to execute and deliver a funding agreement relating to such application, in a form consistent with past practice, with such changes, insertions or omissions as may be finalized by such officer, with the advice of the Executive Director and the Commission's General Counsel; and iii. Authorize the Chair and Executive Director, either of whom may act, to take such action as may be deemed necessary or appropriate to provide for the payment of the disbursement of \$39,651,804.00 from the Hampton Roads Regional Transit Fund when required under such funding agreement; Seconded by Mayor Alexander. The Motion Carried by vote of the six Member Jurisdictions.

Information Items

A. HRTAC Monthly Financial Report

Executive Director Page reviewed the Monthly Financial Report with the Commission.

B. VDOT Project Updates

Executive Director Page noted that the VDOT project updates were included in the agenda package.

C. HRTAC Regular Meeting – September 21, 2023

Adjournment

With no further business to come before the Hampton Roads Transportation Accountability Commission, the meeting adjourned at 12:55 p.m.

Dr. Richard “Rick” West,
HRTAC Chair

**5. B. Fiscal Year 2023 Annual Report to the Joint Commission on
Transportation Accountability Relating to the Hampton
Roads Transportation Fund**

Agenda Item 5B
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

**Re: Fiscal Year 2023 Annual Report to the Joint Commission on Transportation
Accountability Relating to the Hampton Roads Transportation Fund**

Recommendation:

The Finance Committee recommends that the Commission authorize the Executive Director to finalize and submit the legislatively mandated Fiscal Year 2023 Hampton Roads Transportation Fund (HRTF) Report to the Joint Commission on Transportation Accountability.

Background:

Item 1. I. of Chapter 769 of the 2023 Special Session I included the requirement that the Joint Commission on Transportation Accountability (JCTA) shall regularly review, and provide oversight of, the usage of funding generated pursuant to the provisions of HB 2313 (2013 Session of the General Assembly). To meet this requirement, the Hampton Roads Transportation Accountability Commission (HRTAC) has prepared a report to inform the JCTA on the uses of the HRTF for Fiscal Year 2023. At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended that the Commission authorize the Executive Director to finalize and submit to the Joint Commission on Transportation Accountability the Fiscal Year 2023 Annual Report to the Joint Commission on Transportation Accountability Relating to the Hampton Roads Transportation Fund.

Fiscal Impact:

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

Suggested Motion:

Motion: The Commission authorizes the Executive Director to finalize and submit to the Joint Commission on Transportation Accountability the Fiscal Year 2023 Annual Report to the Joint Commission on Transportation Accountability Relating to the Hampton Roads Transportation Fund.



**5. C. HRTAC Investment Policy - Update re: Verification of
Deposits**

Agenda Item 5C
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

Re: HRTAC Investment Policy - Update re: Verification of Deposits

Recommendation:

The Finance Committee recommends to the Commission approval of the proposed amendment to the HRTAC Investment Policy.

Background:

The Commission adopted the HRTAC Investment Policy on June 16, 2016. The Commission Staff and professional investment advisors continue to monitor and propose updates as necessary, and the Commission has amended the Adopted HRTAC Investment Policy on December 13, 2018, June 20, 2019, and December 10, 2020. As a result of recent regulatory changes, HRTAC Staff and professional advisors have identified a need to amend the HRTAC Investment Policy. Specifically, in April of this year, the State Treasury Board amended the regulations concerning the Virginia Security for Public Deposits Act to require public depositors to review and verify on a quarterly basis information provided by public depositories to the State Treasury Board and to notify the State Treasury Board of any detected discrepancies. The proposed update to the HRTAC Investment Policy addresses this new requirement. At the September 21, 2023 Finance Committee Meeting, the Finance Committee endorsed the update and recommended to the Commission approval of the proposed amendment to the HRTAC Investment Policy.

Fiscal Impact:

There is no impact in relation to this Consent Item.

Suggested Motion:

Motion: The Commission approves the proposed amendment to the HRTAC Investment Policy.





Hampton Roads Transportation Accountability Commission

Statement of Investment Policy

Effective (date)

Originally Adopted: June 16, 2016

Revised: December 13, 2018, June 20, 2019, December 10, 2020, *and*
(date)

Table of Contents

A.	INTRODUCTION.....	1
B.	SCOPE	1
C.	OBJECTIVES	1
D.	STANDARD OF PRUDENCE	2
E.	DELEGATION OF AUTHORITY	2
F.	ETHICS AND CONFLICTS OF INTEREST.....	2
G.	AUTHORIZED INVESTMENTS	2
H.	PORTFOLIO DIVERSIFICATION.....	5
I.	MAXIMUM MATURITY	5
J.	SECURITY DOWNGRADES	6
K.	INVESTMENT OF BOND PROCEEDS.....	6
L.	SELECTION OF BROKER/DEALERS.....	6
M.	ENGAGEMENT OF INVESTMENT MANAGERS	7
N.	COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS	7
O.	SAFEKEEPING AND CUSTODY.....	8
P.	VERIFICATION OF DEPOSITS	8
Q.	RECORDS AND REPORTS	8
R.	PERFORMANCE STANDARDS	8
S.	INVESTMENT POLICY ADOPTION.....	9

GLOSSARY

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION STATEMENT OF INVESTMENT POLICY

A. INTRODUCTION

The Hampton Roads Transportation Accountability Commission (“HRTAC” or “Commission”) is a political subdivision of the Commonwealth of Virginia created under §33.2-2601 et seq. of the Code of Virginia. All cash and investment activities shall be conducted in accordance with applicable law, including the Code of Virginia Hampton Roads Transportation Fund (“HRTF”; §33.2-2600 et seq.), Security for Public Deposits Act (“SPDA”; §2.2-4400 et seq.), Investment of Public Funds Act (§2.2-4500 et seq.), and Administration of the Transportation Trust Fund (§33.2-1525), the provisions of any applicable bond resolutions, and this Investment Policy (the “Policy”).

B. SCOPE

This Policy applies to the deposit and investment activities of all funds and monies that are under the Commission’s supervision including, but not limited to, all financial assets and funds related to the HRTF and all financial assets and funds related to the Hampton Roads Regional Transit Fund (“HRRTF”). This Policy does not apply to any monies in trust for the funding of post-employment employee benefits. Funds from all sources related to HRTF may be pooled for investment purposes, and funds from all sources related to HRRTF may be pooled for investment purposes, but all deposits and investments related to the HRRTF shall be fully segregated from the deposits and investments of the HRTF. For the purpose of this Policy, these funds are referred to collectively as the “Investment Portfolio”.

C. OBJECTIVES

All investments and deposits will be managed to accomplish the following fundamental goals:

- **Safety of Principal** - The single most important objective is the preservation of principal of those funds within the Investment Portfolio.
- **Maintenance of Liquidity** - The Investment Portfolio will be managed at all times with sufficient liquidity to meet all projected disbursement needs as well as to fund capital projects and other operational requirements which may reasonably be anticipated.
- **Maximizing Return** - The Investment Portfolio shall be managed so as to maximize the return on investments within the context and parameters set forth by the safety and liquidity objectives above.

D. STANDARD OF PRUDENCE

Public funds held and invested by HRTAC shall be held in trust for the citizens of the member jurisdictions and any investment of such funds shall be made with the care, skill, prudence, and diligence under the circumstances then prevailing that a person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

E. DELEGATION OF AUTHORITY

The Commission is responsible for the adoption of the Investment Policy, and must approve any revisions or alterations made to it.

HRTAC's Executive Director shall have responsibility for the operation of the cash management and investment program subject to: the Commission's Policies for the Management of Cash, Bank Accounts, and Credit and Debit Cards; the Commission's Policy Relating to Procurement of Goods and Services, Including Procedures for Small Purchases; this Investment Policy; and other policies adopted by the Commission.

Subject to the approval of the Commission, the Executive Director may engage external investment advisors as defined in this Policy, under Section M. Engagement of Investment Managers, to assist in managing HRTAC's Investment Portfolio and to provide advice on the administration of cash and investment activities.

No member of the Commission, or the Executive Director, or any employee of the Commission acting in accordance with Code of Virginia Section §33.2-1525 shall be personally liable for any loss relating to an investment in the absence of negligence, malfeasance, misfeasance, or nonfeasance.

F. ETHICS AND CONFLICTS OF INTEREST

The Executive Director and any HRTAC staff involved in the cash management and investment processes shall comply with the Code of Virginia Section §2.2-3100 et seq., the State and Local Government Conflict of Interests Act. Specifically, no staff shall:

- a) accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties; or
- b) accept any business or professional opportunity when he knows there is a reasonable likelihood that the opportunity is being afforded to influence him in the performance of his official duties.

The Executive Director and HRTAC staff shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair his ability to make impartial decisions.

G. AUTHORIZED INVESTMENTS

Subject to applicable state laws, federal laws, bond resolutions, and in the case of the LGIP, VIP and Virginia SNAP funds, adoption by the Commission of necessary Resolutions, HRTAC's Investment Portfolio may be invested in the following Authorized

Investments. The Executive Director may, but shall not be obligated to, impose additional requirements and restrictions to ensure that HRTAC's goals are met. For all Authorized Investments the "time of purchase" or "date of purchase" shall be interpreted as the transaction settlement date.

1. **U.S. Treasury Obligations.** Bills, notes and any other obligation or securities issued by or backed by the full faith and credit of the United States Treasury. The final maturity shall not exceed a period of five (5) years from the time of purchase.
2. **Federal Agency/Government Sponsored Enterprise Obligations.** Bonds, notes and other obligations of the United States, and securities guaranteed by any federal government agency or instrumentality or government sponsored enterprise, with a rating of at least "AA" (or its equivalent) by at least two of the following NRSROs: Moody's Investors Service, Inc. ("Moody's"), Standard & Poor's ("S&P"), or Fitch Ratings, Inc. ("Fitch"). The final maturity shall not exceed a period of five (5) years from the time of purchase. Any investment in mortgage backed securities or collateralized mortgage obligations shall have a weighted average life that does not exceed five (5) years from the time of purchase.
3. **Municipal Obligations.** Bonds, notes and other general obligations of the Commonwealth of Virginia and its agencies, authorities, and political subdivisions upon which there is no default, with a rating of at least AA (or its equivalent) by at least two of the following NRSROs: S&P, Moody's, or Fitch, matures within three (3) years of the date of purchase, and otherwise meets the requirements of Code of Virginia §2.2-4501.
4. **Commercial Paper.** "Prime quality" commercial paper, with a maturity of 270 days or less from the date of purchase, issued by domestic corporations (corporations organized and operating under the laws of the United States or any state thereof) provided that the issuing corporation, or its guarantor, has a short-term debt rating of at least two of the following: P-1 by Moody's, A-1 by S&P, or F1 by Fitch, and that otherwise meets the requirements of Code of Virginia §2.2-4502.
5. **Bankers' Acceptance.** Issued by domestic banks or a federally chartered office of a foreign bank, which are eligible for purchase by the Federal Reserve System with a maturity of 180 days or less. The issuing corporation, or its guarantor, must have a short-term debt rating from at least two of the following: P-1 by Moody's, A-1 by S&P, or F1 by Fitch.
6. **Corporate Notes.** High quality corporate notes with a final maturity from the time of purchase of five (5) years or less and that meet the following requirements:
 - a. Notes with maturities of no more than three (3) years from the time of purchase shall have received at least two of the following ratings: A by S&P, A by Moody's, or A by Fitch.
 - b. Notes with maturities of no more than five (5) years from the time of purchase shall have received at least two of the following ratings: AA by S&P, Aa by Moody's, or AA by Fitch.

- 7. Negotiable Certificates of Deposit and Bank Deposit Notes.** Negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks that meet the following requirements:
- a. Notes with maturities or no more than one (1) year from the time of purchase shall have received at least two of the following ratings: A-1 by S&P, P-1 by Moody's, or F1 by Fitch.
 - b. Notes with maturities exceeding one year and not exceeding five (5) years from the time of purchase shall have received at least two of the following ratings: AA by S&P, Aa by Moody's, or AA by Fitch.
- 8. Bank Deposits and Non-Negotiable Certificates of Deposit.** Demand deposits, time deposits, and other deposits that comply with all aspects of SPDA or with §2.2-4518 with a final maturity no more than two (2) years.
- 9. Repurchase Agreements.** In overnight repurchase agreements provided that the following conditions are met:
- a. the contract is fully secured by deliverable U.S. Treasury and Federal Agency/Government Sponsored Enterprise obligations as described in paragraphs 1 and 2 above, including the maximum maturity of three (3) years, having a market value at all times of at least one hundred and two percent (102%) of the amount of the contract;
 - b. a Master Repurchase Agreement or specific written Repurchase Agreement governs the transaction;
 - c. the securities are free and clear of any lien and held by an independent third-party custodian acting solely as agent for HRTAC, provided such third party is not the seller under the repurchase agreement;
 - d. a perfected first security interest under the Uniform Commercial Code in accordance with book entry procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. in such securities is created for the benefit of the City;
 - e. the counterparty is a:
 - i. primary government securities dealer who reports daily to the Federal Reserve Bank of New York, or
 - ii. a bank, savings and loan association, or diversified securities broker-dealer having at least \$5 billion in assets and \$500 million in capital and subject to regulation of capital standards by any state or federal regulatory agency; and
 - f. the counterparty meets the following criteria:
 - i. a long-term credit rating of at least 'AA' or the equivalent from an NRSRO.
 - ii. has been in operation for at least 5 years, and
 - iii. is reputable among market participants.
- 10. Money Market Mutual Funds (Open-Ended Investment Funds).** Shares in open-end, no-load investment funds provided such funds are registered under the Investment Company Act of 1940 and provided that the fund is rated at least AAAM or the equivalent by an NRSRO. The mutual fund must comply with all requirements of Rule 2(a)-7, or any successor rule, of the United States Securities and Exchange Commission, provided the investments by such funds are restricted to investments otherwise permitted by the Code of Virginia for political subdivisions.

11. Local Government Investment Pool (LGIP). A specialized commingled investment program that operates in compliance with Government Accounting Standards Board's Statement 79 ("GASB 79") that was created in the 1980 session of the General Assembly (Code of Virginia §2.2-4700 et seq.) designed to offer a convenient and cost-effective investment vehicle for public funds. The LGIP is administered by the Treasury Board of the Commonwealth of Virginia and is rated AAAM by Standard & Poor's.

12. Virginia State Non-Arbitrage Program's (Virginia SNAP) SNAP Fund. A specialized commingled investment program that operates in compliance with GASB 79 and that was authorized by the Government Non-Arbitrage Act in 1989 (Code of Virginia §2.2-4700 et seq.). Virginia SNAP and the SNAP Fund are administered by the Treasury Board of the Commonwealth of Virginia. Virginia SNAP offers several investment options, including the SNAP Fund, and arbitrage rebate reporting services that are specifically designed for the investment of tax exempt bond proceeds.

H. PORTFOLIO DIVERSIFICATION

The Investment Portfolio shall be diversified by security type and institution. The maximum percentage of the portfolio permitted in each eligible security is as follows:

Permitted Investment	Sector Limit	Issuer Limit
U.S. Treasury Obligations	100%	100%
Federal Agency/GSE Obligations	100%	35%
Municipal Obligations	15%	5%
Commercial Paper	35%	5%
Bankers' Acceptances	35%	5%
Corporate Notes	25%	5%
Negotiable Certificates of Deposit and Bank Deposit Notes	25%	5%
Bank Deposits and Non-Negotiable Certificates of Deposit	100%	100%
Repurchase Agreements	25%	25%
Money Market Mutual Funds	25%	25%
LGIP	100%	100%
Virginia SNAP-SNAP Fund (Proceeds of Tax Exempt Bonds Only)	100%	100%

I. MAXIMUM MATURITY

Maintenance of adequate liquidity to meet HRTAC's cash flow needs is essential. Accordingly, to the extent possible, the Investment Portfolio will be structured in a manner that ensures sufficient cash is available to meet anticipated liquidity needs. Whenever practical, selection of investment maturities will be consistent with known cash requirements in order to minimize the potential for a forced sale of securities in order to provide cash for disbursement needs.

To manage market value volatility, the duration and/or weighted average maturity of the total Investment Portfolio shall not exceed two (2) years.

J. SECURITY DOWNGRADES

In the event that any authorized investment held in the Investment Portfolio is downgraded below the minimum credit rating requirement established in Section G of this policy, the Executive Director shall be notified immediately and the downgraded security shall be liquidated in 30 days unless the Commission authorizes otherwise.

K. INVESTMENT OF BOND PROCEEDS

HRTAC intends to comply with all applicable sections of the Internal Revenue Code relating to Arbitrage Rebate and the investment of bond proceeds. All investment records will be maintained to ensure compliance with all regulations.

L. SELECTION OF BROKER/DEALERS

The Executive Director will maintain a list of broker/dealers that are approved for investment purposes. All broker/dealers who desire to provide investment services will be provided with current copies of the HRTAC's Investment Policy. Before an organization can provide investment services to HRTAC, it must confirm in writing that it has reviewed the Investment Policy and will not recommend or sell to HRTAC any security that is in conflict with the Policy.

At the request of the Executive Director, broker/dealers will supply HRTAC with information sufficient to adequately evaluate their financial capacity and creditworthiness. The following information will be provided:

- 1) Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines;
- 2) Proof of Financial Institution Regulatory Authority ("FINRA") certification
- 3) Proof of state registration;
- 4) Certification of having read and understood and agreeing to comply with the HRTAC's investment policy;
- 5) Evidence of adequate insurance coverage;
- 6) A sworn statement by an authorized representative of the broker/dealer pledging to adhere to "Capital Adequacy Standards" established by the Federal Reserve Board and acknowledging the broker/dealer understands that the HRTAC has relied upon this pledge; and
- 7) any additional information requested by the Executive Director in evaluating the creditworthiness of the institution.

Only firms meeting the following requirements will be eligible to serve as broker/dealers for HRTAC:

- 1) "Primary" dealers and regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule);
- 2) Capital of at least \$10,000,000;
- 3) Registered as a dealer under the Securities Exchange Act of 1934;
- 4) Member of the Financial Institution Regulatory Authority ("FINRA");
- 5) Registered to sell securities in the Commonwealth of Virginia; and

- 6) Engaged in the business of effecting transactions in U.S. government and agency obligations for at least five (5) consecutive years.

If an external third-party Investment Manager is engaged, the Executive Director may designate that Investment Manager to maintain a list of approved broker/dealers.

M. ENGAGEMENT OF INVESTMENT MANAGERS

HRTAC may engage one or more qualified firms to provide investment management services. All investment management firms who desire to provide investment services to HRTAC will be provided with current copies of the Investment Policy. Before an organization can provide investment services to HRTAC, it must confirm in writing that it has reviewed the Investment Policy and will not purchase for HRTAC any security that, at the time of purchase, is in conflict with the Policy.

Only firms meeting the following requirements will be eligible to serve as investment manager for HRTAC:

- 1) Registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940;
- 2) Must provide to HRTAC an annual updated copy of Form ADV, Part II;
- 3) Must be registered to conduct business in the Commonwealth of Virginia; and
- 4) Must have proven experience in providing investment management services under Code of Virginia §2.2-4500 et seq.

Any firm engaged by HRTAC to provide investment services shall:

- 1) Maintain a list of approved security brokers/dealers selected by creditworthiness who are authorized to provide investment services in the Commonwealth of Virginia;
- 2) Provide monthly reports of transactions and holdings to the Executive Director;
- 3) Provide quarterly performance reports that display investment performance in comparison to HRTAC's investment benchmarks;
- 4) Upon request must show that it has solicited at least three bids for any security purchased or sold on behalf of HRTAC; and
- 5) Not collect any soft dollar fees from any broker/dealer or other financial firm in relation to services provided to HRTAC.

N. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

All securities purchases and sales will be transacted only with designated broker/dealers through a formal and competitive process requiring the solicitation and evaluation of at least three bids/offers, taking into consideration current market conditions. Electronic bids will be accepted. HRTAC or its Investment Manager will accept the bid which: (a) offers the highest rate of return within the maturity required and (b) optimizes the investment objective of the overall Investment Portfolio, including diversification requirements. When selling a security, the bid will be selected that generates the highest sale price, consistent with the diversification requirements.

O. SAFEKEEPING AND CUSTODY

All investment securities purchased by or for HRTAC shall be held by a third-party custodial agent that may not otherwise be counterparty to the investment transaction. The custodial agent shall annually provide a copy of its most recent Statement on Standards for Attestation Engagements (SSAE) No. 16 report.

All securities in HRTAC's Investment Portfolio will be held in the name of HRTAC and will be free and clear of any lien. Further, all investment transactions will be conducted on a delivery-vs.-payment basis. On a monthly basis, the custodial agent will provide reports that list details of all securities held for HRTAC including CUSIP, original cost, and market value as of month-end.

Original copies of non-negotiable certificates of deposit and confirming copies of all other investment transactions must be delivered to HRTAC or its custodial agent.

P. VERIFICATION OF DEPOSITS

The Executive Director shall regularly verify that all bank deposits are held in compliance with the SPDA and related guidelines. On an annual basis, the Executive Director shall require all depositories to confirm that all bank accounts are being held as Public Deposits as defined by Code of Virginia Section 2.2-4401 and shall require all depositories to continue to provide monthly account reports. On a quarterly basis, the Executive Director shall utilize the Public Fund Accounts system provided on the Department of the Treasury's website to confirm that all quarter-end bank account balances are being reported as Public Deposits. The Executive Director shall report any discrepancies identified during the quarterly verification to the Treasurer of the Commonwealth of Virginia.

Q. RECORDS AND REPORTS

The Executive Director will review an investment performance report on at least a quarterly basis as provided by external investment managers and pooled investment programs. The Executive Director shall report investment performance to the Commission on a quarterly basis.

In addition to quarterly performance reports, monthly reports of balances and holdings shall be provided to the Commission. The reports shall consist of a summary of cash and investments by depository and manager and a listing of all investments.

R. PERFORMANCE STANDARDS

The Investment Portfolio will be designed to obtain at least a market level rate of return, given budgetary and economic cycles, commensurate with HRTAC's risk tolerances and cash flow needs. HRTAC's portfolio management approach will be active, allowing periodic restructuring of the Investment Portfolio to take advantage of current and anticipated interest rate movements.

The returns on the Investment Portfolio will be compared on a quarterly basis to indices of U.S. Treasury securities having similar maturities or to other appropriate benchmarks

as selected by the Executive Director. For funds having a weighted average maturity greater than 90 days, performance will be computed on a total return basis.

S. INVESTMENT POLICY ADOPTION

This policy is enacted by the Hampton Roads Transportation Accountability Commission, this 16th day of June, 2016, and was revised by the Hampton Roads Transportation Accountability Commission on the 13th day of December, 2018 the 20th day of June, 2019, the 10th day of December 2020, and the 21st day of (date). This policy with revised changes will become effective (date).

Glossary of Terms

Bankers' Acceptance: a draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Benchmark: a comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

Broker: brings buyers and sellers together for a commission.

Certificate of Deposit (CD): a time deposit with a specific maturity evidenced by a Certificate. Large-denomination CD's are typically negotiable.

Collateral: securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

Commercial Paper: An unsecured promissory note with a fixed maturity no longer than 270 days. Public offerings are exempt from SEC regulation.

Corporate Notes: Unsecured promissory notes issued by corporations to raise capital.
Dealer: acts as a principal in all transactions, buying and selling for his own account.

Debenture: a bond secured only by the general credit of the issuer.

Delivery versus Payment: delivery of securities with an exchange of money for the securities. (See also "Delivery versus Receipt")

Delivery versus Receipt: delivery of securities with an exchange of a signed receipt for the securities. Also known as "free" delivery. (See also "Delivery versus Payment").

Diversification: allocation investment funds among a variety of securities offering independent returns.

Federal Agency: government sponsored/owned entity created by the U.S. Congress, generally for the purpose of acting as a financial intermediary by borrowing in the marketplace and directing proceeds to specific areas of the economy considered to otherwise have restricted access to credit markets, also referred to as Government Sponsored Enterprises or GSEs. The largest are Ginnie Mae, Fannie Mae, Freddie Mac, Federal Home Loan Banks, Federal Farm Credit Bank, Tennessee Valley Authority.

Federal Funds: funds placed in Federal Reserve Banks by depository institutions in excess of current reserve requirements, and frequently loaned or borrowed on an overnight basis between depository institutions.

Federal Funds Rate: the rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open – market operations.

Liquidity: the ability of ease with which an asset can be converted into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be transacted at those quotes.

Market Value: the price at which a security is trading and could presumably be purchased or sold.

Master Repurchase Agreement: a written contract covering all future transactions between the parties to repurchase—reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller borrower.

Maturity: the date upon which the principal or stated value of an investment becomes due and payable.

Nationally Recognized Statistical Rating Organization (NRSRO): A credit rating agency which issues credit ratings that the U.S. Securities and Exchange Commission (the "SEC") permits other financial firms to use for certain regulatory purposes. Several examples include Moody's Investor Service, Standard & Poor's and Fitch Ratings.

Portfolio: collection of securities held by an investor.

Primary Dealer: a group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

Rate of Return: the yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Repurchase Agreement (RP or REPO): a agreement under which the holder of securities sells these securities to an investor with a commitment to repurchase the securities at a fixed price on a fixed date. The security's "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this.

Safekeeping: a service rendered by banks for a fee whereby securities and valuables of all types and descriptions are held by the bank for protection.

SEC Rule 15C3-1: see "Uniform Net Capital Rule".

Securities and Exchange Commission ("SEC"): agency created by Congress to protect investors in securities transactions by administering securities legislation.

Treasury Bills: a non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Treasury Bonds: long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

Treasury Notes: medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

Uniform Net Capital Rule: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

Yield: the rate of annual income return on an investment, expressed as a percentage. Income/current yield is obtained by dividing the current dollar income by the current market price for the security. Net yield or yield to maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

**5. D. I-64/Denbigh Boulevard Interchange Project, Phase 2
Preliminary Engineering and Right of Way (UPC 123656)
Standard Project Agreement**

Agenda Item 5D
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

**Re: I-64/Denbigh Boulevard Interchange Project, Phase 2 East Bound, UPC 123656
Standard Project Agreement for Preliminary Engineering and Right of Way**

Recommendation:

The Finance Committee recommends to the Commission approval of the I-64/Denbigh Boulevard Interchange Project, Phase 2 East Bound, UPC 123656 Standard Project Agreement for Preliminary Engineering and Right of Way.

Background:

The Commission Staff and Counsel have developed with VDOT the I-64/Denbigh Boulevard Interchange Project, Phase 2 East Bound (UPC 123656) Standard Project Agreement to support the proposed project Preliminary Engineering and Right of Way and presented it to the Finance Committee for its review and recommendation to the Commission at its next meeting. Funding for full construction of the project will be addressed once the Preliminary Engineering and Right of Way work has advanced to provide a more mature construction budget and schedule. At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended to the Commission approval of the I-64/Denbigh Boulevard Interchange Project, Phase 2 East Bound, UPC 123656 Standard Project Agreement for Preliminary Engineering and Right of Way.

Fiscal Impact:

There is a fiscal impact in relation to this Consent Item as the \$26,643,026 HRTF funds provided for this project are identified in the Approved HRTAC FY2024-FY2030 Six Year Funding Plan.

Suggested Motion:

Motion: The Commission: i. Approves the I-64/Denbigh Boulevard Interchange Project, Phase 2 East Bound, UPC 123656 Standard Project Agreement for Preliminary Engineering and Right of Way; and ii. Authorizes the Chair to execute and deliver such agreement to the Virginia Department of Transportation with such changes, insertions or omissions as may be finalized by the Chair, with the advice of the Executive Director and the Commission's general counsel.



**Standard Project Agreement for Funding and Administration
between
Hampton Roads Transportation Accountability Commission
and
Virginia Department of Transportation**

HRTAC Project Title: I-64/Denbigh Boulevard Interchange Project - Phase 2 East Bound

HRTAC Project Number: UPC 123656 (Phase 2 Preliminary Engineering and Right of Way)

This Standard Project Agreement for Funding and Administration (the "Agreement") is made and effective as of the date of last execution below, 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, 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 VDOT's responsibilities with respect to VDOT Highways and HRTAC's responsibilities with respect to the application of the HRTAC-Controlled Moneys, VDOT and HRTAC entered into a Memorandum of Agreement dated March

30, 2015 (such agreement as thereafter amended and modified from time to time, the "MOA");

WHEREAS, the MOA contemplates that HRTAC may from time to time enter into Standard Project Agreements for Funding and Administration of projects that HRTAC selects and that HRTAC requests VDOT to administer and/or develop with HRTAC Controlled Moneys;

WHEREAS, HRTAC has determined that it desires to 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 and it otherwise satisfies the requirements of the HRTAC Act;

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;

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:

A. VDOT's Obligations

VDOT shall:

1. 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 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 A.8 below or as follows:
 - (a) 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 A.1(a), 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 on the commitments of the funding sources (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).

- (b) 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).
- (c) 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.

2. Without limiting the foregoing, VDOT shall:

- (a) 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;
- (b) 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.

- (c) Involve HRTAC in any procurement consistent with customary practices between VDOT and HRTAC.
- 3. Perform or have performed in accordance with VDOT's standards for highways, bridges and tunnels (or that otherwise are applicable to the work under the Project) 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).
- 4. Not use any funds provided by HRTAC, including the funds specified on Appendix B, to pay any Project cost if the HRTAC Act does not permit such Project cost to be paid with HRTAC funds.
- 5. 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.

6.
 - (a) 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.
 - (b) Provide HRTAC’s Executive Director with the monthly reports described on Appendix D.
7. 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.
8.
 - (a) 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 F 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 A.8(a)(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 F, 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.

- (b) 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.

- (c) 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 A.8(a) 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.
- (d) 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 A.8(c) 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.
9. Release or return any unexpended funds to HRTAC no later than 90 days after final payment has been made in respect of the Project.
10. 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.
11. 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.

12. 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.
13. Be solely responsible for the administration and/or development of the Project and all engagements, commitments and agreements with contractors. 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 lender and any bond trustee, as additional insureds on any such insurance policy, and present HRTAC with satisfactory evidence thereof before any work on the Project commences.
14. 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).
15. 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 for its intended purposes for the duration of the Project's useful life. If the Project is or is part of a VDOT Highway, VDOT shall be responsible to operate and/or maintain the Project after its completion (including responsibility to correct any defects or to cause any defects to be corrected), and 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).
16. Comply with all applicable federal, state and local laws and regulations, including without limitation requirements of the Virginia Public Procurement Act.
17. 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.
18. 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.

19. 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.
20. 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.
21. With respect to modifications to any agreement with a contractor, concede to HRTAC any resulting savings, if HRTAC-Controlled Moneys are 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.
22. 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, any liquidated damages (as well as other

damages paid by a contractor, insurance proceeds, or recoveries from third parties) received by VDOT in respect of the Project shall be for the benefit of HRTAC.

23. 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 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.

B. HRTAC's Obligations

HRTAC shall:

1. Subject to the limitations as to amounts set forth in Appendix B (and subject to Section F 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.
2. 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.
3. 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.

4. Route all of VDOT's accelerated or supplemental requests for funding from HRTAC under Sections A.5 and A.8, 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.
5. 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.
6. 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 A.12 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 A.12 of this Agreement to reimburse funds to HRTAC, the parties should engage in dispute resolution as provided in Section D 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.

7. 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.
8. 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.
9. 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.

C. Term

1. 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.
2. 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 F 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.
3. 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. Before initiating any proceedings to terminate under this Section, HRTAC shall give VDOT sixty (60) days' written notice of any claimed material breach of this Agreement and the reasons for termination; thereby

allowing VDOT an opportunity to investigate and cure any such alleged breach. 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 (a) where VDOT has either misused or misapplied HRTAC funds in contravention of this Agreement or applicable law, or (b) without the prior written consent of any lender to HRTAC, if the terms of HRTAC's loan agreement with such lender require such consent.

4. Upon (a) expiration or earlier termination of this Agreement and (b) payment of all eligible expenses as set forth in Section C.3 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.

D. 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.

E. 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. 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, 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 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 holds a license to, among other things, use the tolling infrastructure and system). 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.

F. Appropriations Requirements

1. 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.
2. 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.
3. 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.
4. 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.

G. Representations and Warranties

1. VDOT hereby represents and warrants to HRTAC as of the date of this Agreement as follows:
 - (a) 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;

- (b) 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;
- (c) 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;
- (d) 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
- (e) 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.

2. HRTAC hereby represents and warrants to VDOT as of the date of this Agreement as follows:

- (a) 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;

- (b) 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;
- (c) 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;
- (d) 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
- (e) 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.

H. 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*).

I. 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

J. Assignment

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

K. 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.

L. 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.

M. 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.

N. Sovereign Immunity

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

O. 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.

P. 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.

Q. Governing Law

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

R. Survival

The following provisions shall survive the expiration or earlier termination of this Agreement: Sections A.4, A.9, A.12, A.15, A.17, A.19, A.22, B.5 and B.7, and Sections C through R.

[Signature page follows]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by their duly authorized representatives, intending it to be effective on the date of last execution.

Hampton Roads Transportation Accountability Commission

By:_____

Name:_____

Title:_____

Date:_____

Virginia Department of Transportation

By:_____

Name:_____

Title:_____

Date:_____

APPENDIX A

I-64/DENBIGH BOULEVARD INTERCHANGE PROJECT – PHASE 2 EAST BOUND - UPC 123656 (PHASE 2 PRELIMINARY ENGINEERING AND RIGHT OF WAY)

Scope: The work associated with this Agreement is to fund the design and right of way acquisition activities for installing on- and off-ramps on I-64 eastbound at Denbigh Boulevard to improve traffic operations, reduce congestion, and improve safety. The Project is located in the City of Newport News on I-64 between the Jefferson Avenue and Fort Eustis Boulevard Interchanges. The Project will address the growing traffic needs in the City of Newport News and relieve congestion on the adjacent roadway network. The Jefferson Avenue Interchange is experiencing significant delays and queuing, particularly in the evening peak period.

Phase 1 of the Project will address on- and off-ramps on westbound I-64 at Denbigh Boulevard and is not funded pursuant to or addressed by this Agreement. The scope for Phase 2, Preliminary Engineering and Right of Way, of the Project, which is addressed by this Agreement, will include the PE and RW phases for the following improvements: new on- and off-ramps on eastbound I-64 at Denbigh Boulevard and widening of the existing Denbigh Boulevard bridge over I-64 to accommodate these additional ramps (Phase 2 Improvements). Both Phase 1 and Phase 2 are included in the Hampton Roads Transportation Planning Organization (HRTPO) 2045 Long Range Transportation Plan (LRTP). The Commonwealth has allocated \$73.8M of Smart Scale Round 4 and Priority Transportation Funding for Phase 1 of the Project. HRTAC has allocated funding for the PE and RW phases of Phase 2 of the Project in its adopted Six Year Funding Plan, and has planned for future anticipated construction costs as shown in HRTAC's 2045 Long Range Plan of Finance and in Appendix B of this Agreement.

APPENDIX B

I-64/DENBIGH BOULEVARD INTERCHANGE PROJECT – PHASE 2 EAST BOUND – UPC 123656 (PHASE 2 PRELIMINARY ENGINEERING AND RIGHT OF WAY)

PROJECT BUDGET AND PROJECT SCHEDULE

Project Budget: I-64/DENBIGH BOULEVARD INTERCHANGE PROJECT, PHASE 2:

HRTAC Costs (UPC 123656):

Preliminary Engineering (PE)	\$ 17,712,000
Right of Way (RW)	8,931,026
Construction (CN)	0.00*
Total Cost (PE and RW)	\$ 26,643,026

The Scope of Work for and activities associated with this Agreement are set out in Appendix A.

The parties agree that funding shall be made available by HRTAC under this Agreement for Phase 2, Preliminary Engineering and Right of Way, of the Project, whether such work is undertaken before or subsequent to execution of this Agreement.

*Only the PE and RW activities administered under UPC 123656 will be funded under this Agreement. The current \$161,420,044 planning estimate for Construction of Phase 2 of the Project is preliminary. Following further Preliminary Engineering, Right of Way, and cost estimation work, HRTAC will work to identify the HRTAC controlled funds sufficient to fund construction for Phase 2 of the Project. The parties agree that an amendment to this Agreement will be necessary to update and provide for full funding for construction of Phase 2 of the Project. Nothing herein shall be deemed or construed to commit either party to adopt any such amendment, and the terms of each amendment must be acceptable to each party acting in its sole discretion.

The tasks contemplated under this Agreement include but are not limited to the following:

The work associated with this Agreement includes the design and right of way activities for new eastbound on- and off-ramps on I-64 at Denbigh Boulevard in the City of Newport News, widening of the existing Denbigh Boulevard Bridge over I-64, cost estimate and schedule refinements, and support of design related activities for this project, as defined in the Appendix A.

Project Schedule: I-64/Denbigh Boulevard Interchange Project, Phase 2 (all dates are estimates)

- **Preliminary Engineering (PE):**
 - PE Start: 9/2023
 - PE End: 7/2030
- **Right of Way (RW):**
 - RW Start: 2/2026
 - RW End 4/2030
- **Construction (CN): (Based on funding availability and project readiness)**
 - CN Start: 8/2030
 - CN End: 7/2033

Project Cash Flow Schedule: See Annex I to this Appendix B, which addresses the cash flow and schedule for the PE and RW activities for Phase 2 of the Project and is incorporated herein by this reference as if set out in full.

ANNEX I TO APPENDIX B

ANNEX I TO APPENDIX B -PROJECT BUDGET & CASH FLOW

PROJECT IDENTIFICATION AND PROPOSED FUNDING

HRTAC Project Title: I-64/Denbigh Blvd Interchange Project, Phase 2
 Scope of Project Services: Standard Project Services to Support the Phase 2 Project (UPC 123656)
 Recipient Entity: Virginia Department of Transportation
 VDOT Project Contact: Todd Halacy (757) 956-3010

Baseline Schedule:	PE: Start 9/2023, End 7/2030 RW: Start 2/2026 End 4/2030 CN: Start 8/2030 End 7/2033	VDOT Programming Schedule: PE: Start 9/2023 End 7/2030 (SPA Project Schedule) RW: Start 2/2026 End 4/2030 CN: Start 8/2030 End 7/2033

PROJECT COSTS & FUNDING SOURCE

Project Cost Category	Total Project Costs	HRTAC PayGo Funds	HRTAC Financed Funds	Description Other Sources of Funds	Amount Other Sources of Funds	Recipient Entity Funds
Design Work	\$ 17,712,000	\$ 17,712,000	\$ -		\$ -	\$ -
Engineering	\$ -	\$ -				
Environmental Work						
Right-of-Way Acquisition	\$ 8,931,026	\$ 8,931,026			\$ -	
Construction	\$ -	\$ -			\$ -	
Contract Administration						
Testing Services						
Inspection Services						
Capital Asset Acquisitions						
Other						
Total Estimated Cost	\$ 26,643,026	\$ 26,643,026	\$ -	\$ -	\$ -	\$ -

FISCAL YEAR ANNUAL PROJECT CASH FLOW

Project Phase	Total Fiscal Year 2024		Total Fiscal Year 2025		Total Fiscal Year 2026		Total Fiscal Year 2027		Total Fiscal Year 2028		Total Fiscal Year 2029		Total Fiscal Year 2030	
	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed
Design Work	\$ 2,133,980		\$ 2,560,776		\$ 2,560,776		\$ 2,560,776		\$ 2,560,776		\$ 2,560,776		\$ 2,774,140	
Engineering	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Environmental Work														
Right-of-Way Acquisition	\$ -		\$ -		\$ 3,716,990		\$ 2,973,594		\$ -		\$ 995,752		\$ 1,244,690	
Construction	\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	
Contract Administration														
Testing Services														
Inspection Services														
Capital Asset Acquisitions														
Other														
Total Estimated Cost	\$ 2,133,980	\$ -	\$ 2,560,776	\$ -	\$ 6,277,766	\$ -	\$ 5,534,370	\$ -	\$ 2,560,776	\$ -	\$ 3,556,528	\$ -	\$ 4,018,830	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

FISCAL YEAR ESTIMATED PROJECT CASH FLOW

	FY 24 Mthly Cash Flow		FY 25 Mthly Cash Flow		FY 26 Mthly Cash Flow		FY 27 Mthly Cash Flow		FY 28 Mthly Cash Flow		FY 29 Mthly Cash Flow		FY 30 Mthly Cash Flow	
	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed	PayGo	Financed
July	\$ -		\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867	
August	\$ -		\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867	
September	\$ 213,398		\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867	
October	\$ 213,398		\$ 213,398		\$ 213,398		\$ 956,798		\$ 213,398		\$ 213,398		\$ 337,867	
November	\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
December	\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
January	\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
February	\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
March	\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
April	\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867		\$ 337,867	
May	\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867		\$ 213,398	
June	\$ 213,398		\$ 213,398		\$ 956,796		\$ 213,398		\$ 213,398		\$ 337,867		\$ 426,762	
Total per Fiscal Year	\$ 2,133,980	\$ -	\$ 2,560,776	\$ -	\$ 6,277,766	\$ -	\$ 5,534,370	\$ -	\$ 2,560,776	\$ -	\$ 3,556,528	\$ -	\$ 4,018,830	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Virginia Department of Transportation

Hampton Roads Transportation Accountability Commission

 Signature
 Commissioner
 Title

 Signature
 HRTAC Chairman
 Title

 Date
 Stephen C. Brich, P.E.
 Print name of person signing

 Date
 Dr. Richard W. "Rick" West
 Print name of person signing

**APPENDIX C
FORM OF PAYMENT REQUISITION**

HRTAC Project Title and Number: I-64/Denbigh Boulevard Interchange Project – UPC 123656 (Phase 2 Preliminary Engineering and Right of Way)

Project Scope/Services Description: The work associated with this Standard Project Agreement for the I-64/Denbigh Boulevard Interchange Project, Phase 2 Preliminary Engineering and Right of Way, is to perform the development and delivery of the I-64/Denbigh Boulevard Interchange Project, Phase 2 Preliminary Engineering and Right of Way.

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: UPC 123656 (Phase 2 PE and RW) Project Title: I-
64/Denbigh Blvd Interchange

Cost Category	HRTAC Approved Project Costs		Total PayGo Requests Previously	PayGo Requisition Amount this Period	Remaining PAYGO Project Budget (Calculation)
Project Starting Balance	\$0				\$ -
Design Work/ Engineering	\$17,712,000		\$ -	\$ -	\$ -
Engineering	\$0		-	-	\$ -
Environmental Work	-		-	-	\$ -
Right-of-Way Work	\$8,931,026		-	-	\$ -
Construction	\$0		-	-	\$ -
Contract Administration	-		-	-	\$ -
Testing Services	-		-	-	\$ -
Inspection Services	-		-	-	\$ -
Capital Asset Acquisitions	-		-	-	\$ -
Other (please explain)	-		-	-	\$ -
TOTALS	\$26,643,026		\$ -	\$ -	\$ -

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.

**5. E. I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements,
UPCs 120375 and 123322 Standard Project Agreement**

Agenda Item 5E
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

Re: I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement

Recommendation:

The Finance Committee recommends to the Commission approval of the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement.

Background:

The Commission Staff and Counsel have developed with VDOT the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement to support the construction of the proposed project and presented it to the Finance Committee for its review and recommendation. At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended to the Commission approval of the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement.

Fiscal Impact:

There is a fiscal impact in relation to this Consent Item as the \$40,862,923 HRTF funds provided for this project are identified within the Hampton Roads Express Lanes Network (HRELN) category in the Approved HRTAC FY2024-FY2030 Six Year Funding Plan.

Suggested Motion:

Motion: The Commission: i. Approves the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements, UPCs 120375 and 123322 Standard Project Agreement; and ii. Authorizes the Chair to execute and deliver such agreement to the Virginia Department of Transportation with such changes, insertions or omissions as may be finalized by the Chair, with the advice of the Executive Director and the Commission's general counsel.



**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: I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements Project

HRTAC Project Number: UPCs 120375 and 123322

This Standard Project Agreement for Funding and Administration (the "Agreement") is made and effective as of the date of last execution below, 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 August 18, 2020 (such agreement as thereafter amended and modified from time to time, the "Master Agreement");

WHEREAS, the Master Agreement contemplates that HRTAC may from time to time enter into Standard 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;

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:

A. VDOT's Obligations

VDOT shall:

1. 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 A.8 below or as follows:
 - (a) 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 A.1(a), 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 on the commitments of the funding sources (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).

- (b) 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).
- (c) 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.

2. Without limiting the foregoing, VDOT shall:

- (a) 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;
- (b) 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.

- (c) Involve HRTAC in any procurement consistent with the terms of the Master Agreement.
3. Perform or have performed in accordance with VDOT's standards for highways, bridges and tunnels (or that otherwise are applicable to the work under the Project) 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).
 4. 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.
 5. 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.

6.
 - (a) 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.
 - (b) Provide HRTAC's Executive Director with the monthly reports described on Appendix D.
7. 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.
8.
 - (a) 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 F 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 A.8(a)(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 F, 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.

- (b) 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.

- (c) 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 A.8(a) 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.
 - (d) 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 A.8(c) 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.
- 9. Release or return any unexpended funds to HRTAC no later than 90 days after final payment has been made in respect of the Project.
 - 10. 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.
 - 11. 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.

12. 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.
13. 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 lender and any bond trustee, as additional insureds on any such insurance policy, and present HRTAC with satisfactory evidence thereof before any work on the Project commences.
14. 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).
15. 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 (including, without limitation, the license granted to HRTAC pursuant to Section 3.08(b) thereof). 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).

16. Comply with all applicable federal, state and local laws and regulations, including without limitation requirements of the Virginia Public Procurement Act.
17. 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.
18. 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.
19. 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.

20. 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.
21. With respect to modifications to any agreement with a contractor, concede to HRTAC any resulting savings, if HRTAC-Controlled Moneys are 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.
22. Include in any agreement with a contractor an assessment of liquidated damages in accordance with the Master Agreement if either substantial completion or final acceptance is not achieved by the applicable deadline. Unless otherwise agreed by the parties acting reasonably, any liquidated damages (as well as other damages paid by a contractor, insurance proceeds, or recoveries from third parties) received by VDOT in respect of the Project shall be administered in accordance with the terms of the Master Agreement.
23. 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 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.

B. HRTAC's Obligations

HRTAC shall:

1. Subject to the limitations as to amounts set forth in Appendix B (and subject to Section F 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.
2. 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.

3. 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.
4. Route all of VDOT's accelerated or supplemental requests for funding from HRTAC under Sections A.5 and A.8, 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.
5. 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.

6. 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 A.12 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 A.12 of this Agreement to reimburse funds to HRTAC, the parties should engage in dispute resolution as provided in Section D 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.
7. 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.
8. 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.
9. 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.

C. Term

1. 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.
2. 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 F 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.

3. 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. Before initiating any proceedings to terminate under this Section, HRTAC shall give VDOT sixty (60) days' written notice of any claimed material breach of this Agreement and the reasons for termination; thereby allowing VDOT an opportunity to investigate and cure any such alleged breach. 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 (a) where VDOT has either misused or misapplied HRTAC funds in contravention of this Agreement or applicable law, or (b) without the prior written consent of any lender to HRTAC, if the terms of HRTAC's loan agreement with such lender require such consent.
4. Upon (a) expiration or earlier termination of this Agreement and (b) payment of all eligible expenses as set forth in Section C.3 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.

D. 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.

E. 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 (including, without limitation, the license granted to HRTAC pursuant to Section 3.08(b) thereof). 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 and the Master Agreement (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 holds a license to, among other things, use the tolling infrastructure and system, 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.

F. Appropriations Requirements

1. 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.
2. 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.

3. 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.
4. 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.

G. Representations and Warranties

1. VDOT hereby represents and warrants to HRTAC as of the date of this Agreement as follows:
 - (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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

- (e) 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.

2. HRTAC hereby represents and warrants to VDOT as of the date of this Agreement as follows:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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

- (e) 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.

H. 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*).

I. 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

J. Assignment

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

K. 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.

L. 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.

M. 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.

N. Sovereign Immunity

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

O. 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.

P. 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.

Q. Governing Law

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

R. Survival

The following provisions shall survive the expiration or earlier termination of this Agreement: Sections A.4, A.9, A.12, A.15, A.17, A.19, A.22, B.5 and B.7, and Sections C through R.

[Signature page follows]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by their duly authorized representatives, intending it to be effective on the date of last execution.

Hampton Roads Transportation Accountability Commission

By:_____

Name:_____

Title:_____

Date:_____

Virginia Department of Transportation

By:_____

Name:_____

Title:_____

Date:_____

APPENDIX A

HAMPTON ROADS EXPRESS LANES NETWORK PROJECT ELEMENTS

I-64/I-464 INTERCHANGE, EXIT 291 FLYOVER RAMP IMPROVEMENTS PROJECT – UPCs 120375 AND 123322

Scope: The work associated with this Agreement for the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements Project is to fund a portion of construction activities to improve traffic operations, reduce congestion, and improve safety. The Project is located in the City of Chesapeake. The Project will improve the I-64/I-464 interchange by providing a direct connection between I-64 eastbound and Route 168 southbound via I-464 southbound. The Project scope will include these improvements: (i) new flyover ramp from I-64 eastbound to I-464 southbound (to Route 168), (ii) reconfiguration of the I-64 eastbound ramp to I-464 northbound, (iii) maintenance of the existing I-64 eastbound to I-464 southbound loop-ramp (to Route 17 southbound), and (iv) shifting the I-464 southbound diverge point for Route 17 and Route 168 approximately 2,000 ft. to the north. The Commonwealth has allocated \$140M of Interstate Operations and Enhancement Program (IOEP) funds for Preliminary Engineering, Right of Way and Construction of this Project. In addition to the IOEP funding, an estimated \$40,862,923 in HRTAC funding is needed to complete Construction of the Project.

The Project is in addition to proposed loop ramp replacement improvements to the I-64/I-464 Interchange that are included in the Hampton Roads Transportation Planning Organization (HRTPO) 2045 Long Range Transportation Plan (LRTP) and HRTAC's 2045 Long Range Plan of Finance. Prior to moving forward with the Region's proposed loop ramp replacement improvement projects, VDOT will complete an Interchange Access Report (IAR), which will be funded under a separate agreement, to evaluate the full build of the I-464/I-64 Interchange and Route 168 proposed ramp configuration contemplated by HRTAC's Long Range Plan of Finance and the HRTPO's 2045 LRTP.

APPENDIX B

HAMPTON ROADS EXPRESS LANES NETWORK ELEMENTS

I-64/I-464 INTERCHANGE, EXIT 291 FLYOVER RAMP IMPROVEMENTS PROJECT – UPC 120375 and 123322

PROJECT BUDGET AND PROJECT SCHEDULE

Project Budget: I-64/I-464 INTERCHANGE, EXIT 291 FLYOVER RAMP IMPROVEMENTS PROJECT:

HRTAC and VDOT Costs (UPCs 120375 and 123322):

Preliminary Engineering (PE)	\$4,420,000
Right of Way (RW)	\$1,276,469
Construction (CN)	\$175,166,454
Total Cost	\$180,862,923

The Scope of Work for and activities associated with this Agreement for the I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements Project are set out in Appendix A. Funding for the Project consists of \$140,000,000 in IOEP funds for preliminary engineering, right of way and construction work and \$40,862,923 in HRTAC funding. The HRTAC funding is for Construction (CN) of the Project.

The tasks contemplated under this Agreement include but are not limited to the following:

Construction of the I-64/I-464 Interchange, Exit 291 Ramp Improvements, including a new flyover ramp from I-64 eastbound to I-464 southbound, re-evaluation of existing High Rise Bridge Environmental Assessment, cost estimate & schedule refinements, and support of design related activities for this Project as defined in the Appendix A.

Project Schedule: I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements Project (all dates are estimates):

- **Preliminary Engineering (PE):**
 - PE Start: 1/21/2022
 - PE End: 10/17/2023
- **Right of Way (RW):**
 - RW Start: 10/17/2023
 - RW End: 10/18/2023
- **Construction (CN):**
 - CN Start: 10/18/2023

- CN End: 11/2/2027

Project Cash Flow Schedule: See Annex I to this Appendix B (which is incorporated herein by this reference as if set out in full).

ANNEX I TO APPENDIX B

ANNEX I TO APPENDIX B-PROJECT BUDGET & CASH FLOW

PROJECT IDENTIFICATION AND PROPOSED FUNDING

HRTAC Project Title:	I-464/I-64 Interchange, Exit 291 Flyover Ramp Improvements Project				
Scope of Project Services:	Standard Project Services to Support the IAR (UPC 120375, 123322)				
Recipient Entity:	Virginia Department of Transportation				
VDOT Project Contact:	Todd Halacy (757) 956-3010				
Baseline Schedule:	PE: Start 1/21/22, End 10/17/23		VDOT Programming Schedule: (SPA Project Schedule)	PE: Start 1/21/22	End 10/17/23
	RW: Start 10/17/23 End 10/18/23			RW: Start 10/17/23	End 10/18/23
	CN: Start 10/18/23 End 11/2/27			CN: Start 10/18/23	End 11/2/27

PROJECT COSTS & FUNDING SOURCE

Project Cost Category	Total Project Costs	HRTAC PayGo Funds	HRTAC Financed Funds	Description Other Sources of Funds	Amount Other Sources of Funds	Recipient Entity Funds
Design Work	\$ 4,420,000.00	\$ -	\$ -	Fed/State	\$ 4,420,000.00	\$ -
Engineering	\$ -	\$ -				
Environmental Work						
Right-of-Way Acquisition	\$ 1,276,469.00	\$ -		Fed/State	\$ 1,276,469.00	
Construction	\$ 175,166,454.00	\$ 40,862,923.00		Fed/State	\$ 134,303,531.00	
Contract Administration						
Testing Services						
Inspection Services						
Capital Asset Acquisitions						
Other						
Total Estimated Cost	\$ 180,862,923.00	\$ 40,862,923.00	\$ -	\$ -	\$ 140,000,000.00	\$ -

FISCAL YEAR ANNUAL PROJECT CASH FLOW

Project Phase	Total Fiscal Year 2027		Total Fiscal Year 2028		Total Fiscal Year 2029	
	PayGo	Financed	PayGo	Financed	PayGo	Financed
Design Work	\$ -					
Engineering	\$ -					
Environmental Work						
Right-of-Way Acquisition	\$ -		\$ -		\$ -	
Construction	\$ 18,967,111.00		\$ 21,895,812.00		\$ -	
Contract Administration						
Testing Services						
Inspection Services						
Capital Asset Acquisitions						
Other						
Total Estimated Cost	\$ 18,967,111.00	\$ -	\$ 21,895,812.00	\$ -	\$ -	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

FISCAL YEAR ESTIMATED PROJECT CASH FLOW

	FY 27 Mthly Cash Flow		FY 28 Mthly Cash Flow		FY 29 Qtrly Cash Flow	
	PayGo	Financed	PayGo	Financed	PayGo	Financed
July	\$ -		\$ 3,649,301.00		\$ -	
August	\$ -		\$ 3,649,301.00		\$ -	
September	\$ -		\$ 3,649,301.00		\$ -	
October	\$ -		\$ 3,649,301.00		\$ -	
November	\$ -		\$ 3,649,301.00		\$ -	
December	\$ -		\$ 3,649,307.00		\$ -	
January	\$ 720,606.00		\$ -		\$ -	
February	\$ 3,649,301.00		\$ -		\$ -	
March	\$ 3,649,301.00		\$ -		\$ -	
April	\$ 3,649,301.00		\$ -		\$ -	
May	\$ 3,649,301.00		\$ -		\$ -	
June	\$ 3,649,301.00		\$ -		\$ -	
Total per Fiscal Year	\$ 18,967,111.00	\$ -	\$ 21,895,812.00	\$ -	\$ -	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Virginia Department of Transportation

Hampton Roads Transportation Accountability Commission

Signature
Commissioner
Title

Signature
HRTAC Chairman
Title

Date
Stephen C. Brich, P.E.
Print name of person signing

Date
Dr. Richard W. "Rick" West
Print name of person signing

APPENDIX C
FORM OF PAYMENT REQUISITION

HRTAC Project Title and Number: I-64/I-464 Interchange, Exit 291 Flyover Ramp Improvements Project –
UPCs 120375 and 123322

Project Scope/Services Description: The work associated with this Standard Project Agreement for the I-
464/I-64 Interchange is to perform the development and delivery of the I-64/I-464 Interchange, Exit 291
Flyover Ramp Improvements.

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: _____
HRTAC Project Number: **UPCs 120375/123322**

Request Date: _____
Project Title: **I-64/I-464 Flyover Ramp**

Cost Category	HRTAC Approved Project Costs		Total PayGo Requests Previously	PayGo Requisition Amount this Period	Remaining PAYGO Project Budget (Calculation)
Project Starting Balance	\$0				\$ -
Design Work/ Engineering	\$0		\$ -	\$ -	\$ -
Engineering	\$0		-	-	\$ -
Environmental Work	-		-	-	\$ -
Right-of-Way Work	\$0		-	-	\$ -
Construction	\$40,862,923		-	-	\$ -
Contract Administration	-		-	-	\$ -
Testing Services	-		-	-	\$ -
Inspection Services	-		-	-	\$ -
Capital Asset Acquisitions	-		-	-	\$ -
Other (please explain)	-		-	-	\$ -
TOTALS	\$40,862,923		\$ -	\$ -	\$ -

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.

**5. F. Bowers Hill Interchange Study, UPC 111427 Standard
Project Agreement Second Amendment**

Agenda Item 5F
Consent Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

**Re: Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement
Second Amendment**

Recommendation:

The Finance Committee recommends to the Commission approval of the Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement Second Amendment.

Background:

The Commission Staff and Counsel have developed with VDOT the Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement Second Amendment to support the environmental compliance in accordance with the National Environmental Policy Act (NEPA) and Interchange Access Report (IAR) tasks of the proposed project and presented it to the Finance Committee for its review and recommendation. At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended to the Commission approval of the Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement Second Amendment.

Fiscal Impact:

There is a fiscal impact in relation to this Consent Item as the \$4,000,000 HRTF funds provided for this project are identified within the Project Development category in the Approved HRTAC FY2024-FY2030 Six Year Funding Plan.

Suggested Motion:

Motion: The Commission: i. Approves the Bowers Hill Interchange Study, UPC 111427 Standard Project Agreement Second Amendment; and ii. Authorizes the Chair to execute and deliver such agreement to the Virginia Department of Transportation with such changes, insertions or omissions as may be finalized by the Chair, with the advice of the Executive Director and the Commission's general counsel.



**SECOND AMENDMENT TO
STANDARD PROJECT AGREEMENT FOR FUNDING AND ADMINISTRATION
BETWEEN
THE HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION
AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION
HRTAC Project/Number: Bowers Hill Interchange Study (UPC 111427)**

THIS SECOND AMENDMENT TO STANDARD PROJECT AGREEMENT FOR FUNDING AND ADMINISTRATION (this “Amendment”), dated as the date of last execution below (the “Effective Date”), is made by and between the HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION (“HRTAC”) and the VIRGINIA DEPARTMENT OF TRANSPORTATION (“VDOT”).

RECITALS:

A. The parties entered into a Standard Project Agreement for Funding and Administration for the Bowers Hill Interchange Study (UPC 111427) (the “Project”) dated August 28, 2017 (the “Initial SPA”).

B. The parties also entered into an Amendment to Standard Project Agreement for Funding and Administration for the Project dated as of April 12, 2021 (the “First Amendment” and, together with the Initial SPA, the “Bowers Hill Interchange Study SPA”).

C. Pursuant to Attachment II to the First Amendment, the parties amended and restated Appendix B of the Initial SPA, such that HRTAC’s total commitment with respect to the Project was \$7,904.630.

D. Capitalized terms not defined when used herein shall have the meaning given those terms under the Bowers Hill Interchange Study SPA.

E. VDOT has notified HRTAC that more funding than the amount initially scheduled under the Bowers Hill Interchange Study SPA is required to perform the work necessary to complete the Interchange Access Report (IAR) for the Project and has requested that HRTAC provide additional funding in the amount of \$4,000,000.

F. The parties now desire to amend the Bowers Hill Interchange Study SPA on the terms set forth below.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Bowers Hill Interchange Study SPA as follows:

1. In order to memorialize and give effect to the \$4,000,000 increase in HRTAC funding for the Project described herein, Appendix B of the Bowers Hill Interchange Study SPA is hereby amended and restated in its entirety as set forth in the document attached hereto as Attachment 1, such that HRTAC’s total commitment to the Project (of which \$ _____ has already been funded by HRTAC as of the date hereof) is \$11,904.630.

2. The Paygo Request Form of Appendix C is hereby amended and restated as set forth in the document attached hereto as Attachment 2.

3. Except as modified by the provisions of this Amendment, all other terms of the Bowers Hill Interchange Study SPA shall remain in full force and effect.

4. This Amendment may be executed in any number of counterparts, and by each party on a separate counterpart, each of which, when so executed and delivered, shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment by their duly authorized representatives, intending it to be effective on the date of last execution.

**VIRGINIA DEPARTMENT OF
TRANSPORTATION**

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Stephen C. Brich, P.E.,
Commissioner of Highways

By: _____
Richard W. West,
Chair

Date: _____

Date: _____

ATTACHMENT 1**APPENDIX B (As Amended and Restated)****PROJECT BUDGET, PROJECT SCHEDULE, AND CASHFLOW****APPENDIX B-PROJECT BUDGET & CASH FLOW****PROJECT IDENTIFICATION AND PROPOSED FUNDING**

HRTAC Project Title:	<u>Bowers Hill Interchange Study (UPC 111427)</u>
Scope of Project Services:	<u>Second Amendment to Standard Project Services for Bowers Hill Interchange</u>
Recipient Entity:	<u>Virginia Department of Transportation</u>
VDOT Project Contact:	<u>Todd Halacy, P.E. (757) 956-3010</u>
Baseline Schedule: PE	<u>Start October 2017, End June 2023</u>

PROJECT COSTS & FUNDING SOURCE

Project Cost Category	Total Project Costs	HRTAC PayGo Funds	HRTAC Financed Funds	Description Other Sources of Funds	Amount Other Sources of Funds	Recipient Entity Funds
Design Work			\$ -		\$ -	\$ -
Engineering						
Environmental Work						
Right-of-Way Acquisition		\$ -				
Construction						
Contract Administration						
Testing Services						
Inspection Services						
Capital Asset Acquisitions						
Other	\$ 11,904,630.00	\$ 11,904,630.00				
Total Estimated Cost	\$ 11,904,630.00	\$ 11,904,630.00	\$ -	\$ -		\$ -

FISCAL YEAR ANNUAL PROJECT CASH FLOW

Project Phase	Total Fiscal Years 2018-FY2023		Total Fiscal Year 2024		Total Fiscal Year 2025	
	PayGo	Financed	PayGo	Financed	PayGo	Financed
Design Work	\$ -		\$ -		\$ -	
Engineering						
Environmental Work						
Right-of-Way Acquisition						
Construction						
Contract Administration						
Testing Services						
Inspection Services						
Capital Asset Acquisitions						
Other	6,534,592.00		3,536,704.00		1,833,334.00	
Total Estimated Cost	\$ 6,534,592.00	\$ -	\$ 3,536,704.00	\$ -	\$ 1,833,334.00	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

FISCAL YEAR ESTIMATED PROJECT CASH FLOW

	Total Previous Years FY18-23		FY 24 Mthly Cash Flow		FY 25 Mthly Cash Flow	
	PayGo	Financed	PayGo	Financed	PayGo	Financed
July			\$474,007		\$166,667	
August			\$474,007		\$166,667	
September			\$474,007		\$166,667	
October			\$474,007		\$166,667	
November			\$474,007		\$166,667	
December			\$166,667		\$166,667	
January			\$166,667		\$166,667	
February			\$166,667		\$166,667	
March			\$166,667		\$166,667	
April	\$ 5,753,245.00		\$166,667		\$166,667	
May	\$ 307,340.00		\$166,667		\$166,664	
June	\$ 474,007.00		\$166,667		\$0	
Total per Fiscal Year	\$ 6,534,592.00	\$ -	\$3,536,704	\$ -	\$1,833,334	\$ -

Please Note: If additional years are needed, please submit a separate form with additional columns

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Virginia Department of Transportation

Hampton Roads Transportation Accountability Commission

Signature

Commissioner

Title

Date
Stephen C. Brich, P.E.
Print name of person signing

Signature

HRTAC Chairman

Title

Date
Dr. Richard W. "Rick" West
Print name of person signing

ATTACHMENT 2

DETAILED PAYGO REQUEST – AS AMENDED AND RESTATED

Draw Request Number: _____
HRTAC Project Number: UPC 111427

Request Date: _____
Project Title: Bowers Hill Interchange Study

Cost Category	HRTAC Approved Project Costs		Total PayGo Requests Previously Received	PayGo Requisitio n Amount this Period	Remaining PAYGO Project Budget (Calculation)
Project Starting Balance	\$7,904,630				\$ -
Design Work/ Engineering	\$0		\$ -	\$ -	\$ -
Engineering	-		-	-	\$ -
Environmental Work	-		-	-	\$ -
Right-of-Way Work	\$0		-	-	\$ -
Construction	\$0		-	-	\$ -
Contract Administration	-		-	-	\$ -
Testing Services	-		-	-	\$ -
Inspection Services	-		-	-	\$ -
Capital Asset Acquisitions	-		-	-	\$ -
Other (please explain)	\$4,000,000		-	-	\$ -
TOTALS	\$11,904,630		\$ -	\$ -	\$ -

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.

6. A. Fiscal Year 2023 Audited Financial and Compliance Report

Agenda Item 6A
Action Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

Re: HRTAC Fiscal Year 2023 Audited Financial and Compliance Report

Recommendation:

The Finance Committee recommends that the Commission approve the Draft FY2023 Audited Financial and Compliance Report for HRTAC.

Background:

In accordance with the HRTAC enabling legislation, the Auditor of Public Accounts (APA) must conduct an annual audit of HRTAC. PBMares, LLP was engaged by the APA to conduct the annual audit. The auditor reported that there were no material weaknesses or deficiencies in any of the internal controls or processes of the HRTAC financial activity, and all information was free of any material misstatements. Mr. Michael A. Garber, Partner of PBMares, LLP, will provide the Commission an overview of the annual audit. At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended that the Commission approve the Draft FY2023 Audited Financial and Compliance Report for HRTAC.

Fiscal Impact:

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

Suggested Motion:

Motion: The Commission: i. Approves the Draft FY2023 Audited Financial and Compliance Report for HRTAC; and ii. Authorizes the Executive Director to work with the Auditor of Public Accounts to finalize and provide its distribution.



**6. B. 2023 HRTF Backed TIFIA Loan and Associated Bond
Anticipation Note Authorizations – HRELN Segment 4C,
Resolution 2023-02**



Regular Commission Meeting

Agenda Item 5D

**2023 HRTF Backed TIFIA Loan and Associated Bond
Anticipation Note Authorizations - HRELN Segment 4C
Resolution 2023-02**

September 21, 2023

Segment 4C Funding and 2023 HRTF TIFIA Loan Status Update

- In March 2023, the Debt Management Plan reaffirmed HRTAC's funding sources for the entire HRELN, including Segment 4C.
- At this time, the Finance Team is seeking the Finance Committee and the Commission's authorization and approval of the debt financing for Segment 4C only.
- HRTAC's funding for Segment 4C is comprised of a new HRTF TIFIA Loan ("2023 HRTF TIFIA Loan") and HRTF paygo funding.
 - In September 2022, the Commission authorized the application process for the TIFIA loan.
 - In March 2023, the potential opportunity of Bond Anticipation Notes ("2023A BANs") in connection with the 2023 HRTF TIFIA Loan was presented to the Finance Committee.
 - In August 2023, the application for the 2023 HRTF TIFIA Loan was submitted, in the greatest possible amount permitted by the TIFIA program (\$142,720,000*).

**Final loan amount subject to change*

Anticipated HRELN Debt Financing Plan and Schedule

Debt Funding for Segment 4C

CY 2023

September	HRTAC approves the 2023 HRTF TIFIA Loan and the 2023A BANs
October	CTB approves a Direct Agreement with FHWA for Segment 4C
October - November	2023A BANs pricing
October - November	2023 HRTF TIFIA Loan closing
October - November	2023A BANs closing

Debt Funding for Other Segments

CY 2024

Q2	Start application process for the 2025 Toll TIFIA Loan
Q3-Q4	Sell 2024 HRTF Bonds

CY 2025

Q2-Q3	2025 Toll TIFIA Loan Closing

HRTF: Historical Performance and Near-Term Projections

- Since FY 2014 and through FY 2023, HRTF Revenues have grown at a compounded annual growth rate (“CAGR”) of 6.3% and grew 3.8%% in FY 2023 vs. FY 2022.
- Near-term projections provided by the Virginia Department of Taxation in December 2022 show a CAGR of 2.6% in FY 2024 – FY 2030.
- The strong performance of HRTF reinforces the robustness of these revenues to support HRTAC’s debt and paygo funding programs.

HRTF Historical and Projected Revenues

<i>in millions</i>	Sales and Use Tax	YoY Change	Fuels Tax	YoY Change	Total	YoY Change	
FY 2014	\$107.9		\$37.3		\$145.2		Actual
FY 2015	\$130.0	20.5%	\$40.9	9.7%	\$170.9	17.7%	
FY 2016	\$126.5	-2.7%	\$26.7	-34.7%	\$153.2	-10.4%	
FY 2017	\$131.5	4.0%	\$25.0	-6.4%	\$156.5	2.2%	
FY 2018	\$136.5	3.8%	\$32.7	30.8%	\$169.2	8.1%	
FY 2019	\$144.6	5.9%	\$81.1	148.0%	\$225.7	33.4%	
FY 2020	\$146.2	1.1%	\$55.0	-32.2%	\$201.2	-10.9%	
FY 2021	\$171.6	17.4%	\$56.0	1.8%	\$227.6	13.1%	
FY 2022	\$184.9	7.7%	\$58.7	4.7%	\$243.5	7.0%	
FY 2023	\$191.9	3.8%	\$60.7	3.5%	\$252.7	3.8%	
FY 2024	\$201.6	5.0%	\$67.6	11.3%	\$269.2	6.5%	Projected
FY 2025	\$208.4	3.4%	\$70.4	4.1%	\$278.8	3.6%	
FY 2026	\$213.9	2.6%	\$72.7	3.3%	\$286.6	2.8%	
FY 2027	\$215.8	0.9%	\$74.7	2.8%	\$290.5	1.4%	
FY 2028	\$218.2	1.1%	\$76.7	2.7%	\$294.9	1.5%	
FY 2029	\$220.6	1.1%	\$78.7	2.6%	\$299.3	1.5%	
FY 2030	\$223.0	1.1%	\$80.5	2.3%	\$303.5	1.4%	

2023 HRTF TIFIA Loan

- Consistent with the HRTF Master Trust Indenture
- All primary provisions are consistent with HRTAC's previous loans with TIFIA (for the initial six projects and for the HRBT), including coverage requirements and reserve requirements
- Requested amount consistent with the HRELN Segment 4C's funding structure
- Final maturity expected in 2061, which is within 35 years after Segment 4C's projected substantial completion date
- Amortization profile structured in consideration of the overall HRTF debt service profile

2023A BANs & Previous BANs Implementation

- HRTAC has closed two HRTF-backed TIFIA Loans and each time has utilized interim-financing, Bond Anticipation Notes (BANs), associated with these Loans.
- Previously, the BANs strategy generated substantial economic benefits:
 - The \$414 million 2019A BANs in connection with the TIFIA Loan for the initial six projects produced \$23 million savings.
 - The \$818 million 2021A BANs in connection with the TIFIA Loan for the HRBT produced \$33 million savings.
- In March 2023, the Finance Team presented the potential opportunity for the 2023A BANs in connection with the 2023 HRTF TIFIA Loan to the Finance Committee.
- The Finance Team has been monitoring market conditions, and preliminary analyses, based on current market conditions, indicate the 2023A BANs would produce economic benefit again.

2023A BANs Preliminary Structure

- Lien position
 - Likely, the 2023A BANs would be issued on the Intermediate Lien to reduce borrowing costs while preserving the Senior Lien's long-term borrowing capacity.
- Par amount
 - Approximately \$142 million, equal to the 2023 HRTF TIFIA Loan amount, which is determined by the TIFIA program for TIFIA-eligible costs, which are primarily comprised of project costs and the 2023A BANs' interest during construction (proceeds received may be greater when sold at a premium)
- Final maturity
 - Recommend July 2027, which generates the most benefits compared to other term options based on preliminary analyses
- Capitalized interest
 - Recommend capitalizing interest through July 2025, with potential to meet IRS specified spenddown milestones, so as to allow HRTAC to retain positive arbitrage investment earnings

2023A BANs Economic Benefits – Preliminary Results

- Based on market rates as of September 5, 2023, the estimated present value benefit of using BANs is approximately \$18.4 million.
- Key assumptions:
 - 2023A BANs have a yield of 3.16% and bear a coupon rate of 5%
 - TIFIA loan rate 4.34%
 - Investment earning rate of 5.4% from November 2023 to June 2024 and 4.6% from July 2024 to October 2025
 - Bond premium realized from the sale of the 2023A Bonds would be spent on Segment 4C project costs

Current Action

- Approval of the 2023 HRTF TIFIA Loan and the 2023A BANs
 - HRTAC Resolution 2023 – 02 (Bond Resolution)
- Bond Resolution
 - Approves form of the 2023 HRTF TIFIA Loan and 2023A BANs documents (including Supplemental Indentures, TIFIA Loan Agreement, Preliminary Official Statement, Continuing Disclosure Undertaking, and Bond Purchase Agreement)
 - Delegates power to Executive Director to approve final Bond and loan terms, subject to parameters, including maximum interest rate, maturity and principal amounts

Current Action (continued)

- **2023A BANs Documents:**

- Supplemental Series Indenture supplementing Master Trust Indenture for issuance of the BANs
- Preliminary Official Statement is the offering document for public sale of the 2023A BANs
- Continuing Disclosure Undertaking provides annual and event based information filings to satisfy SEC requirements
- Bond Purchase Agreement is the contract between HRTAC and the underwriters for the purchase and sale of the 2023A BANs

- **2023 HRTF TIFIA Loan Documents:**

- Supplemental Series Indenture supplementing Master Trust Indenture for issuance of TIFIA loan
- Loan Agreement between HRTAC and TIFIA sets out the conditions for closing and disbursement of loan proceeds and affirmative/negative covenants

Appendix:

2023A BANs Benefit Analysis
(based on market conditions as of September 5, 2023)

BANs Mechanism Review

- The BANs strategy is to sell short-term BANs and use the proceeds to pay for project costs; the BANs will then be retired by a long-term TIFIA loan at their final maturity.
- The No BANs strategy is to draw the TIFIA loan during construction and pay for project costs directly.
- Different elements of financing costs and earnings during construction, when accounted for collectively, could result in a better overall economical outcome using the BANs strategy.

Financing Costs and Investment Earnings During Construction

	Borrowing Benchmark Rate	Borrowing Credit Spreads	Interest Accrued	Debt Proceeds Investment
With BANs	Short-term tax exempt	Yes	On the entire BANs issuance	yes
No BANs	Long-term taxable	No	On the outstanding loan balance	no

Better with BANs?	yes	no	varies	yes

- A non-economical benefit of the BANs is that it eliminates drawing down the TIFIA loan multiple times, thereby reducing administration efforts.

TIFIA and BANs Amount Calculation

No BANs Scenario

TIFIA Sizing

Eligible Project Cost	
HRTAC Funded	405,216,054
Other Sources	<u>2,706,000</u>
Sub-total	407,922,054
Total Eligible Costs	407,922,054
Maximum TIFIA Amount (33%)	134,614,278
2023 HRTF Loan (requested loan amount)	134,614,277
Total requested loans/Eligible Costs	33.0%

TIFIA Loan S&U

Sources	
Par Amount	134,614,277
Uses	
Construction Costs	134,614,277

BANs Scenario

TIFIA Sizing

Eligible Project Cost	
HRTAC Funded	405,216,054
Other Sources	<u>2,706,000</u>
Sub-total	407,922,054
Eligible Financing Cost	
BANs Issuance Costs	177,225
BANs Interest During Construction	<u>21,542,683</u>
Sub-total	21,719,908
Total Eligible Costs	429,641,962
Maximum TIFIA Amount (33%)	141,781,848
2023 HRTF Loan (requested loan amount)	141,780,000
Total requested loans/Eligible Costs	33.0%

BANs S&U

Sources	
Par Amount	141,780,000
Construction Fund Earnings	5,322,597
Premium	<u>8,959,078</u>
Total	156,061,675
Uses	
Construction Fund	143,647,597
Capitalized Interest	11,815,000
Costs of Issuance	<u>599,078</u>
Total	156,238,900

TIFIA Loan S&U

Sources	
Par Amount	141,780,000
Uses	
BAN Takeout	141,780,000

Project Funding Sources and Uses

Scenario 1 - No BANs	Total	Prior FYs	FY 2024	FY 2025	FY 2026	FY 2027
Costs - HRTAC Obligation	405,216,054	89,661,598	92,539,368	90,206,045	88,539,372	44,269,671
HRTAC Funds						
HRTF Paygo	270,601,777	89,661,598	92,539,368	88,400,811		
HRTF Subordinate 2023 TIFIA Loan	134,614,277			1,805,234	88,539,372	44,269,671
Total	405,216,054	89,661,598	92,539,368	90,206,045	88,539,372	44,269,671
Scenario 2 - with BANs	Total	Prior FYs	FY 2024	FY 2025	FY 2026	FY 2027
Costs - HRTAC Obligation	405,216,054	89,661,598	92,539,368	90,206,045	88,539,372	44,269,671
HRTAC Funds						
HRTF Paygo	261,568,457	89,661,598	30,846,456	8,251,360	88,539,372	44,269,671
HRTF Intermediate Lien 2023A BANs	143,647,597		61,692,912	81,954,685		
Total	405,216,054	89,661,598	92,539,368	90,206,045	88,539,372	44,269,671

Preliminary Outcome Comparison

Fiscal Year	No BANs Scenario				BANs Scenario				
	TIFIA Debt Service	HRTF Paygo Proj. Payment	Foregone Earnings	Present Value	TIFIA Debt Service	HRTF Paygo Proj. Payment	HRTF Paygo BANs' Int.	Foregone Earnings	Present Value
2024		61,692,912	2,406,088	63,308,974				1,134,635	1,120,809
2025		88,400,811	7,539,604	91,511,476		7,378,281		1,677,575	8,497,945
2026			8,850,990	8,089,158		88,539,372	2,905,033	4,255,170	87,417,760
2027			8,329,280	7,295,826		44,269,671	7,089,000	7,822,042	52,290,150
2028	6,179,035			2,602,497	6,153,252		3,544,500		5,625,220
2029	6,271,346			5,021,113	6,245,177				5,000,161
2030	6,271,549			4,876,620	6,245,379				4,856,272
2031	6,271,761			4,673,922	6,245,591				4,654,419
2032	6,271,983			4,473,854	6,245,812				4,455,186
2033	6,272,215			4,299,256	6,246,043				4,281,316
2034	6,272,458			4,114,933	6,246,285				4,097,762
2035	6,272,712			3,943,906	6,246,538				3,927,450
2036	6,272,977			3,775,129	6,246,802				3,759,376
2037	6,273,255			3,627,790	6,247,078				3,612,652
2038	6,273,545			3,472,285	6,247,367				3,457,797
2039	6,273,848			3,327,985	6,247,669				3,314,099
2040	6,274,165			3,185,604	6,247,985				3,172,312
2041	11,818,882			3,061,263	11,769,566				3,048,490
2042	11,201,059			5,491,828	11,154,320				5,468,913
2043	10,495,498			4,988,618	10,451,704				4,967,802
2044	9,803,977			4,477,555	9,763,068				4,458,872
2045	9,078,946			4,015,099	9,041,062				3,998,345
2046	8,308,543			3,561,667	8,273,874				3,546,806
2047	7,561,281			3,125,006	7,529,731				3,111,966
2048	7,247,632			2,724,614	7,217,390				2,713,245
2049	6,374,530			2,507,715	6,347,931				2,497,251
2050	5,539,975			2,113,629	5,516,858				2,104,810
2051	5,135,928			1,762,390	5,114,497				1,755,036
2052	4,901,263			1,565,058	4,880,812				1,558,528
2053	4,901,979			1,435,549	4,881,525				1,429,559
2054	4,902,729			1,374,209	4,882,271				1,368,475
2055	4,903,512			1,317,207	4,883,051				1,311,711
2056	20,353,698			1,261,054	20,268,769				1,255,792
2057	19,771,066			4,986,024	19,688,568				4,965,219
2058	18,208,935			4,638,969	18,132,954				4,619,612
2059	17,507,380			4,093,775	17,434,328				4,076,693
2060	16,482,447			3,770,557	16,413,671				3,754,824
2061	28,691,868			9,072,546	28,572,146				9,034,690
Total	314,641,977	150,093,723	27,125,961	292,944,665	313,329,076	140,187,324	13,538,533	14,889,422	274,587,326

PV Benefit **\$18,357,339**

*4.3% discount rate to November 1, 2023

** BANs' proceeds investment earnings have been accounted for in the funding source; the foregone earnings in the table represent lost earnings from the amount of HRTF paygo deployed for construction and for BANs' interest payments



Hampton Roads Transportation Accountability Commission



Agenda Item 6B
Action Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

**Re: 2023 HRTF Backed TIFIA Loan and Associated Bond Anticipation Notes
Authorizations - HRELN Segment 4C – Resolution 2023-02**

Recommendation:

The Finance Committee recommends that the Commission adopt Resolution 2023-02 for the proposed 2023 HRTF-backed TIFIA Bond issuance for up to \$143 million and HRTF Intermediate Lien Bond Anticipation Notes issuance for up to \$143 million.

Background:

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 in the localities comprising Planning District 23. The current financing provides funding for Segment 4C (Hampton Segment) of the Hampton Roads Express Lanes Network (HRELN) with a similar TIFIA/BANs structure as was employed in 2019 for the initial six debt-funded projects and in 2021 for the HRBT Expansion Project.

In response to the Commission's Letter of Interest for financing Segment 4C of the HRELN project through the Transportation and Infrastructure Finance and Innovation Act of 1978 (TIFIA), the United States Department of Transportation, acting through the Federal Highway Administrator (TIFIA Lender), has advanced through creditworthiness review, and into negotiation of business terms, a 2023 HRTF-backed TIFIA loan. Furthermore, market conditions may make it fiscally advantageous for the Commission to issue bond anticipation notes (BANs), which are short-term obligations with a term, in this case, of approximately four years, and utilize the proceeds to fund HRELN Segment 4C costs on an interim basis, with TIFIA funding being used to repay the principal amount of the BANs at their maturity. The Intermediate Lien BANs, Series 2023, are expected to be sold to a group of underwriters. A Senior and four Co-Manager Underwriters were chosen from an existing underwriter pool: Wells Fargo, as Senior Underwriter, and BofA Securities, J.P. Morgan, Loop Capital Markets and Siebert Williams Shank & Co., LLC, as Co-Managers to support Wells Fargo. Following a full briefing update, the Finance Committee will be asked for action to endorse Resolution 2023-02 for the issuance of a Subordinate Lien Revenue Bond to the TIFIA Lender, as purchaser of such obligation, in an amount of up to \$143 million, and



Intermediate Lien Bond Anticipation Notes in an amount of up to \$143 million, such issuances anticipated to occur during the Fourth Quarter of CY 2023. The Commission's HRTF funds will serve as the security and payment source for these obligations (this is not a toll-backed financing) with the 2023 HRTF-backed TIFIA loan also serving to secure the BANs, and the financing documents are similar to past TIFIA/BANs documents for HRTF obligations.

This HRTAC Resolution 2023-02 would authorize the Commission's staff, counsel(s) and financial advisors to move forward with such financings, and finalize the documents and agreements required for the same, all subject to parameters in Resolution 2023-02.

At the September 21, 2023 Finance Committee meeting, the Finance Committee recommended that the Commission Adopt Resolution 2023-02 for the proposed 2023 HRTF-backed TIFIA Bond issuance for up to \$143 million and HRTF Intermediate Lien Bond Anticipation Notes issuance for up to \$143 million.

Fiscal Impact:

There is a significant fiscal impact in relation to this Action Item as a portion of the Commission's revenues will be devoted to debt service payments while this financing remains outstanding.

Suggested Motion:

Motion: The Commission adopts Resolution 2023-02.



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 ____, 2023.

Chair, Hampton Roads Transportation
Accountability Commission

Vice-Chair, Hampton Roads Transportation
Accountability Commission

NINTH SUPPLEMENTAL SERIES INDENTURE OF TRUST

between

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee**

Dated as of _____ 1, 2023

relating to

[\$142,720,000]

**Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund**

**Subordinate Lien Revenue Bond
TIFIA Series 2023**

TABLE OF CONTENTS
ARTICLE I SERIES SUPPLEMENT

Section 1.1	Series Supplement.....	2
Section 1.2	Definitions.....	2
Section 1.3	Representations of HRTAC	6

ARTICLE II [RESERVED]

ARTICLE III AUTHORIZATION AND DETAILS OF TIFIA SERIES 2023 BOND

Section 3.1	Authorization of TIFIA Series 2023 Bond	6
Section 3.2	Terms and Details of TIFIA Series 2023 Bond.	6
Section 3.3	Medium and Place of Payment.	7
Section 3.4	Form of TIFIA Series 2023 Bond; Approval of 2023 TIFIA Loan Agreement.	8
Section 3.5	Authentication and Delivery of TIFIA Series 2023 Bond.	8

ARTICLE IV REDEMPTION OF TIFIA SERIES 2023 BOND

Section 4.1	Optional Redemption.....	8
Section 4.2	Mandatory Redemption	9
Section 4.3	Extraordinary Mandatory Redemption.	9
Section 4.4	Partial Redemption of the TIFIA Series 2023 Bond.....	9

ARTICLE V ESTABLISHMENT OF FUNDS AND ACCOUNTS; APPLICATION OF PROCEEDS

Section 5.1	Establishment of Funds and Accounts for the TIFIA Series 2023 Bond.....	10
Section 5.2	Use of Disbursements from TIFIA Loan.	10

ARTICLE VI FLOW OF FUNDS; APPLICATION OF CERTAIN FUNDS

Section 6.1	TIFIA Series 2023 Bond Debt Service Fund.....	11
Section 6.2	TIFIA Subordinate Debt Service Reserve Fund.....	12
Section 6.3	TIFIA Series 2023 Project Fund	13

ARTICLE VII SECURITY FOR THE TIFIA SERIES 2023 BOND

Section 7.1	Security for the TIFIA Series 2023 Bonds.	13
Section 7.2	Covenant to Requisition Under TIFIA Loan Agreement.	14

ARTICLE VIII SPECIAL COVENANTS WITH RESPECT TO TIFIA SERIES 2023 BOND

Section 8.1	Prior Consents in connection with Issuance of Subordinate Obligations.	14
Section 8.2	Compliance With Respect to Put Bonds.	14
Section 8.3	Compliance With Respect to Swap-Related Bonds.....	14
Section 8.4	Issuance of Additional Bonds.	14

Section 8.5	Additional Terms Relating to a Bond Credit Facility or DSRF Credit Facility.	14
Section 8.6	Permitted Investments.....	14
Section 8.7	Events of Default.	15

ARTICLE IX

MISCELLANEOUS

Section 9.1	Tax Status.....	15
Section 9.2	Successors and Assigns.....	15
Section 9.3	Severability	15
Section 9.4	Governing Law	15
Section 9.5	Counterparts.....	16
Section 9.6	Binding Effect.....	16
Section 9.7	Parties Interested.....	16

EXHIBIT A	2023 TIFIA LOAN AGREEMENT
EXHIBIT B	FORM OF TIFIA SERIES 2023 BOND
EXHIBIT C	FORM OF REQUISITION

NINTH SUPPLEMENTAL SERIES INDENTURE OF TRUST

This **NINTH SUPPLEMENTAL SERIES INDENTURE OF TRUST** (this “Ninth Series Supplement”) is made as of _____ 1, 2023, between the **HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION**, a body politic and a political subdivision of the Commonwealth of Virginia (“HRTAC” or the “Commission”), and **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association, and its successors, as trustee (the “Trustee”).

RECITALS:

WHEREAS, HRTAC is a body politic and a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) having the authority under the Code of Virginia of 1950, as amended (the “Virginia Code”), to receive all of the amounts dedicated to the Hampton Roads Transportation Fund (the “HRTF”) from the additional sales and use tax revenues described in Section 58.1-638.H.2 of the Virginia Code and the additional wholesale motor vehicle fuels sales tax revenues described in Section 58.1-2295.A.2 of the Virginia Code;

WHEREAS, as provided in Chapter 26, Title 33.2, of the Virginia Code (the “HRTAC Act”), the Commission shall use the moneys deposited in the HRTF solely for the purposes of (i) funding new construction projects on new or existing highways, bridges, and tunnels in the Member Localities (as hereinafter defined), giving priority to projects expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing within the Member Localities, and (ii) paying the Commission’s administrative and operating expenses as provided in the Annual Budget;

WHEREAS, Section 33.2-2606 of the HRTAC Act authorizes and empowers HRTAC to issue bonds and other evidences of debt and provides that the provisions of Article 5 (Section 33.2-1920 *et seq.*) of Chapter 19 of Title 33.2 of the Virginia Code shall apply, *mutatis mutandis*, to the issuance of such bonds and other evidences of debt (collectively, the “Bonds”) for any of the Commission’s purposes;

WHEREAS, Section 33.2-1920 of the Virginia Code permits the Bonds to be payable from and secured by a pledge of all or any part of the revenues, moneys or funds of HRTAC as specified in a resolution adopted or indenture entered into by HRTAC, but that such Bonds shall not constitute debt of the Commonwealth or any political subdivision thereof (including any Member Locality) other than HRTAC, and that such Bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction except as provided under Section 33.2-1920 of the Virginia Code;

WHEREAS, HRTAC has executed and delivered to the Trustee a Master Indenture of Trust dated as of February 1, 2018 (the “Master Indenture”), under which, among other things, HRTAC has provided for the financing and refinancing of the costs of Projects through the issuance from time to time of Bonds, payable from and secured by the HRTAC Revenues;

WHEREAS, HRTAC and the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”), propose to enter into a TIFIA Loan Agreement (Segment 4C), dated

as of _____, 2023 (the “2023 TIFIA Loan Agreement”), pursuant to which the TIFIA Lender has agreed to extend a loan to HRTAC, the proceeds of which shall be used solely in respect of Eligible Project Costs (as defined in the 2023 TIFIA Loan Agreement) paid or incurred by or on behalf of HRTAC from time to time in connection with the 2023 TIFIA Financed Project (as defined below) and may be used to pay or redeem 2023 HRELN Project BANs (as defined below);

WHEREAS, as evidence of the loan extended by the TIFIA Lender under the 2023 TIFIA Loan Agreement, and to provide for the repayment thereof, HRTAC has determined to issue and deliver a Series of Bonds under the Master Indenture, to be issued as a Subordinate Obligation thereunder and designated the Hampton Roads Transportation Accountability Commission Subordinate Lien Revenue Bond, TIFIA Series 2023 (the “TIFIA Series 2023 Bond”) to the TIFIA Lender in the initial aggregate principal amount (excluding any capitalized interest) of up to \$[142,720,000] to finance certain Eligible Project Costs;

WHEREAS, the Master Indenture provides that HRTAC may issue Subordinate Obligations from time to time as authorized by a Series Supplement, which Subordinate Obligations are to be secured by the HRTAC Revenues in accordance with the Master Indenture, and the Master Indenture further provides that, as a condition to the issuance and authentication of any Series of Bonds, HRTAC shall deliver to the Trustee a Series Supplement;

WHEREAS, HRTAC and the Trustee desire to enter into this Ninth Series Supplement as a Series Supplement under the Master Indenture to set forth the terms of HRTAC’s obligations to the TIFIA Lender relating to the 2023 TIFIA Loan Agreement, which is being entered into as indebtedness under, pursuant to and in accordance with the HRTAC Act;

WHEREAS, all things necessary to make the TIFIA Series 2023 Bond a valid and binding limited obligation of HRTAC, when authenticated and issued as provided in this Ninth Series Supplement, and to constitute this Ninth Series Supplement a valid and binding Series Supplement securing the payment of the principal of and premium, if any, and interest on the TIFIA Series 2023 Bond, have been done and performed.

NOW, THEREFORE, HRTAC hereby covenants and agrees with the Trustee and with the Owners, from time to time, of the TIFIA Series 2023 Bond, as follows:

ARTICLE I SERIES SUPPLEMENT

Section 1.1 Series Supplement. This Ninth Series Supplement is authorized and executed by HRTAC and delivered to the Trustee pursuant to and in accordance with Articles V and XV of the Master Indenture. All terms, covenants, conditions and agreements of the Master Indenture apply with full force and effect to the TIFIA Series 2023 Bond, except as otherwise expressly stated in this Ninth Series Supplement.

Section 1.2 Definitions. All capitalized words and terms used in this Ninth Series Supplement, including in the recitals, shall have the meanings set forth in Article I of the Master Indenture unless the context clearly requires a different or separate meaning. In addition, the

following words and terms have the following meanings in this Ninth Series Supplement unless the context clearly requires otherwise:

“2021 Successor TIFIA Bond” means the Hampton Roads Transportation Accountability Subordinate Lien Revenue Bond, TIFIA Successor Series 2021 authorized to be issued as a Subordinate Obligation under Section 3.1 of the Seventh Supplemental Indenture.

“2023 HRELN Project BANS” means HRTAC’s Intermediate Lien Bond Anticipation Notes, Series 2023A, to be issued on or about _____, 2023, in the par amount of \$ _____, for the purpose of paying Eligible Project Costs.

“2023 TIFIA Debt Service” means, with respect to any Semi-Annual Payment Date occurring on or after the 2023 TIFIA Debt Service Payment Commencement Date, the principal and/or interest required to be paid on the 2023 TIFIA Loan on such Semi-Annual Payment Date as shown on Exhibit G of the 2023 TIFIA Loan Agreement in accordance with the provisions of Section 9 of the 2023 TIFIA Loan Agreement.

“2023 TIFIA Debt Service Payment Commencement Date” means the earlier of (a) [January 1, 2028], and (b) the [third (3rd)] Semi-Annual Payment Date immediately succeeding the 2023 TIFIA Substantial Completion Date.

“2023 TIFIA Financed Project” means the Project as defined in the 2023 TIFIA Loan Agreement.

“2023 TIFIA Interest Rate” means [_____ one-hundredths percent (____%) *per annum*].

“2023 TIFIA Loan” shall have the meaning set forth in the 2023 TIFIA Loan Agreement as the “TIFIA Loan.”

“2023 TIFIA Loan Agreement” means the TIFIA Loan Agreement (Segment 4C), dated as of _____, 2023, between the TIFIA Lender and HRTAC, relating to the 2023 TIFIA Financed Project, as amended in accordance with its terms. The 2023 TIFIA Loan Agreement is attached hereto as Exhibit A.

“2023 TIFIA Substantial Completion Date” means the date of substantial completion, which occurs on the date of opening of the 2023 TIFIA Financed Project (inclusive of each segment thereof) to tolled vehicular traffic.

“Dated Date” means the date of the issuance, authentication and delivery of the TIFIA Series 2023 Bond and may also be referred to as the “Closing Date.”

“Default Rate” means an interest rate of two percent (2.00%) above the 2023 TIFIA Interest Rate.

“Excess Revenues” means, following the occurrence of a Revenue Sharing Trigger Event and until such time as the Revenue Sharing Trigger Event ends, an amount in each month equal to 50% of the Pledged Revenues remaining each month after the transfers described in paragraphs

FIRST through TENTH of Section 8.1(b) and paragraphs FIRST through FOURTH of Section 8.5(b) of the Master Indenture (in that order) have occurred.

“Fifth Series Supplement” means the Fifth Supplemental Series Indenture of Trust dated as of September 1, 2021, between HRTAC and the Trustee.

“Final Maturity Date” has the meaning set forth in the 2023 TIFIA Loan Agreement.

“Government” means the United States of America and its departments and agencies.

“Master Indenture” means the Master Indenture of Trust dated as of February 1, 2018, between HRTAC and the Trustee, as the same may be modified, altered, amended and supplemented from time to time in accordance with its terms.

“Member Localities” means, collectively, each county and city located in Planning District 23, established pursuant to Chapter 42, Title 15.2, of the Virginia Code, currently consisting of the Counties of Isle of Wight, James City, Southampton and York, and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg, and any other localities that may hereafter be added to HRTAC by amendment to the Virginia Code.

“Ninth Series Supplement” means this Ninth Supplemental Series Indenture of Trust dated as of _____, 2023, between HRTAC and the Trustee, being a Series Supplement with respect to the TIFIA Series 2023 Bond pursuant to the provisions of the Master Indenture.

“Permitted Investments” has the meaning set forth in the 2023 TIFIA Loan Agreement.

“Pledged Revenues” means the HRTAC Revenues and all other property of any kind mortgaged, pledged or hypothecated to provide for the payment of or to secure the Bonds by HRTAC or by anyone on its behalf and with its written consent at any time as and for additional security under the Master Indenture and the Series Supplements.

“Second Series Supplement” means the Second Supplemental Series Indenture of Trust dated as of December 1, 2019, between HRTAC and the Trustee.

“Semi-Annual Payment Date” means each January 1 and July 1, or if such day is not a Business Day, then the Business Day succeeding such January 1 or July 1.

“Seventh Series Supplement” means the Seventh Supplemental Series Indenture of Trust dated as of September 21, 2021, between HRTAC and the Trustee.

“TIFIA Bond” and **“TIFIA Loan”** each has the meaning set forth in the 2023 TIFIA Loan Agreement.

“TIFIA Lender” means the U.S. Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, and its successors and assigns.

“TIFIA Maximum Annual Debt Service” means the highest annual aggregate amount, for the present or any succeeding Fiscal Year, of the sum of (i) 2021 Successor TIFIA Debt Service (as defined in the Seventh Series Supplement), (ii) debt service on the TIFIA Series 2021 Bond, (iii) 2023 TIFIA Debt Service, [and (iv) debt service on any future Subordinate Obligations related to a TIFIA loan].

“TIFIA Revenue Sharing Account” shall have the meaning set forth in the Second Series Supplement, as continued by the Seventh Series Supplement and this Ninth Series Supplement.

“TIFIA Series 2021 Bond” means the Hampton Roads Transportation Accountability Subordinate Lien Revenue Bond, TIFIA Series 2021, authorized to be issued as a Subordinate Obligation under Section 3.1(a) of the Fifth Series Supplement.

“TIFIA Series 2023 Bond” means the Hampton Roads Transportation Accountability Subordinate Lien Revenue Bond, TIFIA Series 2023, authorized to be issued as a Subordinate Obligation under Section 3.1(a) of this Ninth Series Supplement.

“TIFIA Series 2023 Bond Debt Service Fund” means the Debt Service Fund related to the TIFIA Series 2023 Bond established pursuant to Section 7.1 of the Master Indenture and Section 5.1 of this Ninth Series Supplement.

“TIFIA Series 2023 Project Fund” means the Project Fund related to the TIFIA Series 2023 Bond established pursuant to Section 7.1 of the Master Indenture and Section 5.1 of this Ninth Series Supplement.

“TIFIA Subordinate Debt Service Reserve Fund” means the Subordinate Debt Service Reserve Fund originally established with respect to the TIFIA Series 2019 Bond (as defined in the Second Series Supplement) pursuant to Section 7.1 of the Master Indenture and Section 5.1 of the Second Series Supplement and continued as a Subordinate Debt Service Reserve Fund securing multiple Series of Bonds related to the 2021 Successor TIFIA Bond pursuant to Section 5.1 of the Seventh Series Supplement, the TIFIA Series 2021 Bond pursuant to Section 5.1 of the Fifth Series Supplement, and the TIFIA Series 2023 Bond pursuant to Section 5.1 of this Ninth Series Supplement.

“TIFIA Subordinate Debt Service Reserve Required Balance” [for the TIFIA Series 2021 Bond, the 2021 Successor TIFIA Bond, and the TIFIA Series 2023 Bond shall be an amount equal to \$_____ (subject to adjustment as provided below), which is the least of (x) ten percent (10%) of the combined maximum stated principal of the TIFIA Series 2021 Bond, the 2021 Successor TIFIA Bond, and the TIFIA Series 2023 Bond, (y) one hundred percent (100%) of TIFIA Maximum Annual Debt Service, and (z) one hundred and twenty-five percent (125%) of the average annual debt service on the TIFIA Series 2021 Bond, the 2021 Successor TIFIA Bond, and the TIFIA Series 2023 Bond through the Final Maturity Date. If there are any Additional TIFIA Loans (as defined in the 2023 TIFIA Loan Agreement), other than with respect to the TIFIA Series 2021 Bond, the 2021 Successor TIFIA Bond, and the TIFIA Series 2023 Bond outstanding at any time, then the amounts set forth in clauses (x) through (z) will be calculated using the summation of the 2021 Successor TIFIA Bond, the TIFIA Series 2021 Bond, the TIFIA Series 2023 Bond and any bond related to applicable additional TIFIA Loans as if there were one TIFIA

Loan. The TIFIA Subordinate Debt Service Reserve Required Balance shall constitute the “Subordinate Debt Service Reserve Fund Requirement,” as defined in the Master Indenture, with respect to the 2021 Successor TIFIA Bond, the TIFIA Series 2021 Bond, the TIFIA Series 2023 Bond and any other bonds or other obligations issued to the TIFIA Lender under the Master Indenture and secured by a pledge of HRTAC Revenues thereunder. Notwithstanding the foregoing, the TIFIA Subordinate Debt Service Reserve Required Balance shall apply only with respect to the 2021 Successor TIFIA Bond until the funding of the TIFIA Subordinate Debt Service Reserve Fund with respect to the TIFIA Series 2021 Bond is required under the provisions of Section 6.2 of the Fifth Series Supplement and the TIFIA Series 2023 Bond is required under the provisions of Section 6.2 hereof].

Section 1.3 Representations of HRTAC. HRTAC represents that (i) it is duly authorized under the Constitution and laws of the Commonwealth, including, particularly and without limitation, Section 33.2-2606 of the HRTAC Act, to issue the TIFIA Series 2023 Bond, to execute this Ninth Series Supplement, and to pledge and grant the security provided herein subject to the Master Indenture, (ii) all action on its part necessary for the execution and delivery of this Ninth Series Supplement has been taken, and (iii) the TIFIA Series 2023 Bond in the hands of the Owners thereof are and will be valid and enforceable limited obligations of HRTAC.

ARTICLE II [RESERVED]

ARTICLE III AUTHORIZATION AND DETAILS OF TIFIA SERIES 2023 BOND

Section 3.1 Authorization of TIFIA Series 2023 Bond. (a) There is authorized to be issued pursuant to the Master Indenture a Series of Subordinate Obligations to be called the “Hampton Roads Transportation Fund Subordinate Lien Revenue Bond, TIFIA Series 2023,” in the initial aggregate principal amount of up to \$[142,720,000], which amount is subject to increase or decrease pursuant to the provisions of the 2023 TIFIA Loan Agreement and as described in Section 3.2(b) of this Ninth Series Supplement.

(b) The proceeds of the TIFIA Series 2023 Bond shall be used solely in respect of Eligible Project Costs paid or incurred by or on behalf of HRTAC and may be used to pay or redeem 2023 HRELN Project BANs but only to the extent that the portion of 2023 HRELN Project BANs to be paid or redeemed with proceeds of the TIFIA Series 2023 Bond financed Eligible Project Costs.

Section 3.2 Terms and Details of TIFIA Series 2023 Bond.

(a) The TIFIA Series 2023 Bond shall be issued to the TIFIA Lender in certificated form as one typewritten bond registered in the name of the TIFIA Lender as the Owner thereof. The TIFIA Series 2023 Bond shall not be issued as a book-entry-only obligation. Initially, there shall be delivered hereunder one fully registered TIFIA Series 2023 Bond up to the full authorized initial aggregate principal amount set forth above, numbered R-1, without interest

coupons. Any TIFIA Series 2023 Bond issued in replacement thereof upon transfer or exchange shall be numbered consecutively from R-2 upward, payable to the Owner thereof. The TIFIA Series 2023 Bond shall be payable, executed, authenticated, registrable, exchangeable and secured all as set forth in the Master Indenture, this Ninth Series Supplement, and the 2023 TIFIA Loan Agreement. In the event the TIFIA Lender sells or otherwise transfers all or a portion of the TIFIA Series 2023 Bond to another Owner, HRTAC shall provide, in writing, subsequent transfer and registration details to the Trustee.

(b) The TIFIA Series 2023 Bond shall be dated the Dated Date. The 2023 TIFIA Loan as evidenced by the TIFIA Series 2023 Bond shall bear interest at the 2023 TIFIA Interest Rate or at the Default Rate as further provided in the 2023 TIFIA Loan Agreement. Interest on the TIFIA Series 2023 Bond shall be calculated on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed and shall be compounded semi-annually on each Semi-Annual Payment Date.

(c) The principal amount of the TIFIA Series 2023 Bond will be increased from time to time (i) on each occasion on which the TIFIA Lender shall disburse loan proceeds under and pursuant to the 2023 TIFIA Loan Agreement, by the amount of such disbursement of loan proceeds, and (ii) in accordance with Section 9(b) of the 2023 TIFIA Loan Agreement, on each occasion on which any amount representing interest that is not currently paid by HRTAC on the applicable Semi-Annual Payment Date, by the amount of such unpaid interest, which shall be capitalized. Not later than the tenth calendar day before the first Business Day of the month following (x) each disbursement of loan proceeds under the 2023 TIFIA Loan Agreement, and (y) each Semi-Annual Payment Date on which interest is capitalized as provided in the preceding sentence, HRTAC shall provide a revised schedule to the Trustee and the TIFIA Lender setting forth each increase in the principal amount of the TIFIA Series 2023 Bond and the revisions to the monthly deposits to the Funds and Accounts required by this Ninth Series Supplement. HRTAC shall, within a reasonable period of time after each disbursement or each Semi-Annual Payment Date on which interest is capitalized, notify the Trustee in writing of the date and amount of each such disbursement or capitalized interest amount and increase to the outstanding principal amount of the TIFIA Series 2023 Bond in accordance with Section 9(b) of the 2023 TIFIA Loan Agreement.

(d) The 2023 TIFIA Loan as evidenced by the TIFIA Series 2023 Bond shall mature no later than the Final Maturity Date.

(e) The principal of and premium, if any, and interest on the TIFIA Series 2023 Bond shall be payable in lawful money of the United States of America.

Section 3.3 Medium and Place of Payment. Payment of the principal of and/or interest on the TIFIA Series 2023 Bond shall be paid by the Trustee by wire transfer to the TIFIA Lender (or a successor) in immediately available funds in accordance with the payment instructions provided by the TIFIA Lender on the date of execution and delivery of the TIFIA Series 2023 Bond. Upon receipt by HRTAC of any revision to the payment instructions provided by the TIFIA Lender that is not also simultaneously sent directly to the Trustee and any Paying Agent, HRTAC shall promptly forward such revised payment instructions to the Trustee and any

such Paying Agent. The Trustee shall comply with such revised payment instructions if received no later than five (5) Business Days prior to the next Semi-Annual Payment Date.

Section 3.4 Form of TIFIA Series 2023 Bond; Approval of 2023 TIFIA Loan Agreement.

(a) The TIFIA Series 2023 Bond and the certificate of authentication shall be substantially in the form attached as Exhibit B to this Ninth Series Supplement, which form is hereby approved and adopted as the form of the TIFIA Series 2023 Bond and the certificate of authentication, with such appropriate variations, omissions and insertions as permitted or required by the Master Indenture, this Ninth Series Supplement, or the 2023 TIFIA Loan Agreement. There may be endorsed on the TIFIA Series 2023 Bond such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law.

(b) The terms and provisions of the 2023 TIFIA Loan Agreement are hereby approved by HRTAC substantially in form and substance as set forth in Exhibit A to this Ninth Series Supplement.

Section 3.5 Authentication and Delivery of TIFIA Series 2023 Bond. (a) The TIFIA Series 2023 Bond shall bear a certificate of authentication, substantially as set forth in the form of the TIFIA Series 2023 Bond attached as Exhibit B, duly executed by the Trustee. The Trustee shall authenticate the TIFIA Series 2023 Bond with the signature of one of its authorized officers or employees. Only such authenticated TIFIA Series 2023 Bond shall be entitled to any right or benefit under the Master Indenture or this Ninth Series Supplement, and the certificate of authentication on the TIFIA Series 2023 Bond shall be conclusive evidence that the TIFIA Series 2023 Bond has been duly issued under and is secured by the provisions of the Master Indenture and this Ninth Series Supplement.

(b) The Trustee shall authenticate and deliver the TIFIA Series 2023 Bond to the TIFIA Lender when there have been filed with or delivered to it all items required by Section 5.3 of the Master Indenture and upon execution and delivery of the 2023 TIFIA Loan Agreement.

**ARTICLE IV
REDEMPTION OF TIFIA SERIES 2023 BOND**

Section 4.1 Optional Redemption. The TIFIA Series 2023 Bond is subject to redemption prior to maturity at the option of HRTAC from any available moneys, in whole or in part at any time (in a minimum principal amount of \$1,000,000), at 100% of the principal amount of the TIFIA Series 2023 Bond to be redeemed plus interest accrued to the date of redemption. HRTAC shall transfer the amounts necessary to fund the redemption from any available sources to the Trustee for deposit into the TIFIA Series 2023 Redemption Account (as established below) at least ten (10) days prior, but not more than thirty (30) days prior, to the redemption date.

Section 4.2 Mandatory Redemption. The TIFIA Series 2023 Bond is subject to mandatory sinking fund redemption prior to maturity by HRTAC in accordance with Section 9(c) of the 2023 TIFIA Loan Agreement.

For purposes of clarification, it is the intention of HRTAC and the TIFIA Lender that such mandatory sinking fund redemption shall at all times match the principal amortization schedule set forth in Exhibit G to the 2023 TIFIA Loan Agreement (as it may be modified from time to time in accordance with the 2023 TIFIA Loan Agreement and Section 4.4 below), and any redemption or other action that results in a revision to the principal amortization schedule set forth in Exhibit G to the 2023 TIFIA Loan Agreement will automatically result in a revision to the mandatory sinking fund redemption requirements, and vice versa.

Section 4.3 Extraordinary Mandatory Redemption. (a) The TIFIA Series 2023 Bond is subject to redemption prior to maturity, in part and without penalty or premium, on each Semi-Annual Payment Date following the occurrence of a Revenue Sharing Trigger Event, for so long as the Revenue Sharing Trigger Event remains in effect, from amounts on deposit in the TIFIA Revenue Sharing Account, as provided in Section 10(a) of the 2023 TIFIA Loan Agreement and Section 6.1(c) hereof, plus interest accrued to the date of redemption.

(b) The TIFIA Series 2023 Bond is subject to redemption prior to maturity, in part and without penalty or premium, on any date and concurrently with the optional redemption or mandatory redemption of Senior Bonds or Intermediate Lien Obligations under Section 10(a)(ii) of the 2023 TIFIA Loan Agreement, in an amount equal to the same percentage of the Outstanding TIFIA Series 2023 Bond that the principal amount of Senior Bonds or Intermediate Lien Obligations being redeemed or prepaid bears to the principal amount of Senior Bonds or Intermediate Lien Obligations Outstanding prior to the redemption or prepayment, in an amount equal to one hundred percent (100%) of the principal amount of the TIFIA Series 2023 Bond to be redeemed, as provided in Section 10(a) of the 2023 TIFIA Loan Agreement, plus interest accrued to the date of redemption; provided, however, that the provisions of this Section 4.3(b) shall not apply to the payment of Senior Bonds or Intermediate Lien Obligations that are paid or to be paid with the proceeds of Bonds issued on the same lien level to refund such Senior Bonds or Intermediate Lien Obligations.

(c) Any redemption pursuant to this Section 4.3 shall not reduce any debt service payment otherwise due on the date of redemption.

(d) Notice of redemption under this Section 4.3 shall be as provided in Section 4.3 of the Master Indenture, subject to the provisions of Section 10 of the 2023 TIFIA Loan Agreement.

Section 4.4 Partial Redemption of the TIFIA Series 2023 Bond. Any partial redemption of the TIFIA Series 2023 Bond under Section 4.3 shall be applied on a pro rata basis across remaining principal maturities and sinking fund installments. Upon any redemption of the TIFIA Series 2023 Bond in part only, Exhibit G to the 2023 TIFIA Loan Agreement shall be revised or completed by or on behalf of the TIFIA Lender in accordance with the terms of the 2023 TIFIA Loan Agreement; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner HRTAC's obligations hereunder, under

the TIFIA Series 2023 Bond, or under any other TIFIA Loan Document (as defined in the 2023 TIFIA Loan Agreement).

Following any such partial redemption, HRTAC may effect corresponding changes to the monthly deposits to the Funds, Accounts and Subaccounts under this Ninth Series Supplement and, subject to the concurrence of the TIFIA Lender, to the amount of the TIFIA Subordinate Debt Service Reserve Required Balance.

The Trustee shall be deemed not to have notice of any change to Exhibit G to the 2023 TIFIA Loan Agreement, unless the Trustee receives written notice thereof from HRTAC or the TIFIA Lender.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS; APPLICATION OF PROCEEDS

Section 5.1 Establishment of Funds and Accounts for the TIFIA Series 2023 Bond.

(a) In accordance with Section 7.1 of the Master Indenture, the following Funds and Accounts are hereby established and/or continued for the TIFIA Series 2023 Bond:

- (i) the TIFIA Series 2023 Project Fund;
- (ii) the TIFIA Series 2023 Bond Debt Service Fund, and within such Fund the TIFIA Series 2023 Interest Account, the TIFIA Series 2023 Principal Account, the TIFIA Series 2023 Redemption Account and the TIFIA Revenue Sharing Account; and
- (iii) the TIFIA Subordinate Debt Service Reserve Fund originally created pursuant to Section 5.1 of the Second Series Supplement.

(b) The Funds and Accounts established pursuant to this Section 5.1 shall be held by the Trustee.

(c) As provided in Section 2.1(b) of the Master Indenture, the money and investments and earnings thereon held in the TIFIA Series 2023 Project Fund and the TIFIA Series 2023 Bond Debt Service Fund are pledged exclusively to secure the TIFIA Series 2023 Bond.

(d) As permitted by the definition of “Subordinate Debt Service Reserve Requirement” in the Master Indenture and as specified in the applicable Series Supplement, the TIFIA Subordinate Debt Service Reserve Fund secures the TIFIA Series 2021 Bond, the 2021 Successor TIFIA Bond, the TIFIA Series 2023 Bond and any other bonds that may be secured by such fund pursuant to the provisions of the Master Indenture and a Supplemental Indenture.

Section 5.2 Use of Disbursements from TIFIA Loan. The disbursements received from the TIFIA Lender under the provisions of Section 4 of the 2023 TIFIA Loan Agreement as proceeds of the TIFIA Series 2023 Bond shall, if not applied immediately to reimburse HRTAC for Eligible Project Costs or provide for the payment of 2023 HRELN Project BANs, be deposited

when received by HRTAC into the TIFIA Series 2023 Project Fund and applied to the payment of Eligible Project Costs as provided in Section 6.3 herein. The Trustee shall have no duty or responsibility to determine whether the proceeds of the TIFIA Series 2023 Bond have been applied to Eligible Project Costs.

ARTICLE VI

FLOW OF FUNDS; APPLICATION OF CERTAIN FUNDS

Section 6.1 TIFIA Series 2023 Bond Debt Service Fund. (a) Notwithstanding anything in the “FIFTH” clause of Section 8.1(b) of the Master Indenture to the contrary, with respect to the TIFIA Series 2023 Bond, beginning not later than the last Business Day in the month of the Semi-Annual Payment Date prior to the 2023 TIFIA Debt Service Payment Commencement Date, and by the last Business Day of each month thereafter, an amount equal to one-sixth ($1/6^{\text{th}}$) of the next interest payment due after such date with respect to the TIFIA Series 2023 Bond shall be deposited to the TIFIA Series 2023 Interest Account. Notwithstanding anything in the “FIFTH” clause of Section 8.1(b) of the Master Indenture to the contrary, with respect to the TIFIA Series 2023 Bond, beginning not later than the last Business Day in the month of the second Semi-Annual Payment Date (*i.e.*, twelve months) prior to the payment of the first sinking fund principal payment required in accordance with Section 4.2 hereof, and by the last Business Day of each month thereafter, an amount equal to one-twelfth ($1/12^{\text{th}}$) of the next sinking fund principal payment due after such date with respect to the TIFIA Series 2023 Bond shall be deposited to the TIFIA Series 2023 Principal Account; *provided, however*, HRTAC shall be entitled to a credit, as provided in the “FIFTH” clause of Section 8.1(b) of the Master Indenture, immediately before each Semi-Annual Payment Date for accrued interest and any other interest earnings currently on deposit therein. In the event Pledged Revenues are insufficient to fund the full amount of monthly deposits to all accounts within the TIFIA Series 2023 Bond Debt Service Fund, the Trustee shall apply such available Pledged Revenues *pro rata* in accordance with the Outstanding principal amount of each such Series of Subordinate Bonds, first to the applicable Interest Account and then to the applicable Principal Account.

(b) Moneys in the TIFIA Series 2023 Redemption Account shall be applied by the Trustee to the purchase or redemption of the TIFIA Series 2023 Bond as provided herein.

(c) TIFIA Revenue Sharing Account.

(i) Except as otherwise agreed or waived by the TIFIA Lender, the TIFIA Revenue Sharing Account will be funded in accordance with Section 8.5 of the Master Indenture and this Section 6.1 and only for so long as the 2021 Successor TIFIA Bond, the TIFIA Series 2021 Bond, or the TIFIA Series 2023 Bond (or other TIFIA obligation to which the revenue sharing described herein shall apply) is Outstanding and is owned by the TIFIA Lender or another federal agency. The “FIRST” clause of Section 8.5(b) of the Master Indenture shall not be operative with respect to the deposit or transfer of amounts in the General Fund to the TIFIA Revenue Sharing Account, and HRTAC shall be under no obligation to transfer amounts in the General Fund to the TIFIA Revenue Sharing Account except as specifically provided in the “FIFTH” clause of Section 8.5(b) of the Master Indenture.

(ii) HRTAC shall provide prompt notice to the TIFIA Lender and the Trustee of the occurrence and of the discontinuation of a Revenue Sharing Trigger Event. On and after the 2023 TIFIA Debt Service Payment Commencement Date and during any month in which a Revenue Sharing Trigger Event occurs or continues, HRTAC shall calculate and transfer an amount equal to Excess Revenues for the month to the Trustee for deposit in the TIFIA Revenue Sharing Account.

(iii) On each Semi-Annual Payment Date with respect to the TIFIA Series 2023 Bond, the amount, if any, on deposit the TIFIA Revenue Sharing Account as of such Semi-Annual Payment Date will be transferred on a pro-rata basis to the TIFIA Series 2023 Bond Redemption Account in the TIFIA Series 2023 Bond Debt Service Fund, to the 2021 Successor TIFIA Redemption Account in the 2021 Successor TIFIA Bond Debt Service Fund (as provided in Section 6.1(c) of the Seventh Series Supplement), and to the TIFIA Series 2021 Bond Redemption Account in the TIFIA Series 2021 Bond Debt Service Fund (as provided in Section 6.1(c) of the Fifth Series Supplement). Amounts deposited in the TIFIA Series 2023 Bond Redemption Account in the TIFIA Series 2023 Bond Debt Service Fund shall be used to effect an extraordinary mandatory redemption of the TIFIA Series 2023 Bond as provided in Section 4.3 of this Ninth Series Supplement.

(iv) HRTAC and the TIFIA Lender (or the Owner of the TIFIA Series 2023 Bond) may agree in a future Series Supplement that the provisions relating to the TIFIA Revenue Sharing Account may apply to an additional Bond issued under the Master Indenture to the TIFIA Lender or any such Owner.

(v) With respect to the “FIFTH” clause of Section 8.1(b) of the Master Indenture, amounts in the TIFIA Revenue Sharing Account shall not be credited against transfers from the Revenue Fund to the TIFIA Series 2023 Bond Debt Service Fund.

Section 6.2 TIFIA Subordinate Debt Service Reserve Fund. [(a) On or prior to the later of the Substantial Completion Date (as defined in the 2023 TIFIA Loan Agreement) or the date of the final disbursement of the 2023 TIFIA Bond under the provisions of the 2023 TIFIA Loan Agreement, HRTAC shall cause the deposit of Pledged Revenues available under the “SIXTH” clause of Section 8.1(b) and Section 8.4 of the Master Indenture, or if applicable, under the “FIRST” clause of Section 8.5(b) of the Master Indenture into the TIFIA Subordinate Debt Service Reserve Fund at such times and in amounts that are sufficient to cause the balance therein to equal the TIFIA Subordinate Debt Service Reserve Required Balance as of such date. Thereafter, HRTAC shall cause the deposit of Pledged Revenues pursuant to the “SIXTH” clause of Section 8.1(b) of the Master Indenture into the TIFIA Subordinate Debt Service Reserve Fund in an amount sufficient to maintain the balance therein to equal the TIFIA Subordinate Debt Service Reserve Required Balance. The TIFIA Subordinate Debt Service Reserve Fund shall be held solely for the benefit of the Owners of the TIFIA Series 2023 Bond, the TIFIA Series 2021 Bond, and the 2021 Successor TIFIA Bond, and [any applicable bonds] related to any additional TIFIA loans, and shall be used, withdrawn, and replenished as provided herein and in Section 8.4 of the Master Indenture. If, on any date of valuation of Permitted Investments credited to the TIFIA Subordinate Debt Service Reserve Fund pursuant to Section 8.4 of the Master Indenture, the amount on deposit in the TIFIA Subordinate Debt Service Reserve Fund exceeds the TIFIA

Subordinate Debt Service Reserve Required Balance as of such date, the Trustee shall transfer such excess amount as provided in Section 8.4 of the Master Indenture.

(b) [The provisions of Section 6.2(b) of the Second Series Supplement shall no longer be applicable with respect to the TIFIA Subordinate Debt Service Reserve Fund.]]

(c) HRTAC shall provide the Trustee written notice of the Substantial Completion Date.

Section 6.3 TIFIA Series 2023 Project Fund. (a) The Trustee will disburse the amounts in the TIFIA Series 2023 Project Fund to the payment or reimbursement of Eligible Project Costs, as directed by HRTAC, and such amounts may be used to pay or redeem the principal portion of 2023 HRELN Project BANs as provided in an Officer's Certificate, but only to the extent that such principal portion of the 2023 HRELN Project BANs to be paid or redeemed with proceeds of the TIFIA Series 2023 Bond financed Eligible Project Costs.

Disbursements from the TIFIA Series 2023 Project Fund shall be made by the Trustee to HRTAC or as directed by HRTAC upon receipt by the Trustee of an Officer's Certificate or of a requisition (upon which the Trustee shall be entitled to rely) signed by an HRTAC Representative and containing all information called for by, and otherwise being in the form of, Exhibit C.

(b) If the Trustee receives an Officer's Certificate stating that certain amounts in the TIFIA Series 2023 Project Fund will not be necessary to pay the costs of the 2023 TIFIA Financed Project, the Trustee shall then apply any remaining balance at the direction of an HRTAC Representative with the consent of the TIFIA Lender.

ARTICLE VII SECURITY FOR THE TIFIA SERIES 2023 BOND

Section 7.1 Security for the TIFIA Series 2023 Bonds. The TIFIA Series 2023 Bond shall be issued pursuant to the Master Indenture, this Ninth Series Supplement, and the 2023 TIFIA Loan Agreement, and shall be (a) equally and ratably secured with respect to the Pledged Revenues and certain Funds and Accounts established under the Master Indenture with any other Series of Subordinate Obligations (or any related Bond Credit Facility, if any) of HRTAC issued pursuant to Articles V and XV of the Master Indenture, without preference, priority or distinction of any Subordinate Obligations over any other Subordinate Obligations, and (b) secured with respect to certain Funds and Accounts in accordance with the provisions of this Ninth Series Supplement. Notwithstanding anything in the Master Indenture to the contrary, amounts in the TIFIA Series 2023 Project Fund, the TIFIA Series 2023 Interest Account, the TIFIA Series 2023 Principal Account, and the TIFIA Series 2023 Redemption Account are pledged exclusively to secure the obligations of HRTAC to the Owners of the TIFIA Series 2023 Bond. The TIFIA Revenue Sharing Account is pledged to secure the obligations of HRTAC to the Owners of the TIFIA Series 2023 Bond and also Owners of the 2021 Successor TIFIA Bond and the TIFIA Series 2021 Bond.

HRTAC has filed a copy of this Ninth Series Supplement in the records of HRTAC.

Section 7.2 Covenant to Requisition Under TIFIA Loan Agreement. HRTAC agrees to take all actions necessary to ensure that it can requisition sufficient monies under the 2023 TIFIA Loan Agreement to pay Eligible Project Costs allocated to the 2023 TIFIA Loan.

ARTICLE VIII SPECIAL COVENANTS WITH RESPECT TO TIFIA SERIES 2023 BOND

Section 8.1 Prior Consents in connection with Issuance of Subordinate Obligations. For so long as any TIFIA Bond or Loan is Outstanding, HRTAC hereby agrees that, without the written consent of the TIFIA Lender, it will not issue Subordinate Obligations (a) that bear interest at a Variable Interest Rate (as defined in the 2023 TIFIA Loan Agreement), or (b) to any Person other than the TIFIA Lender.

Section 8.2 Compliance With Respect to Put Bonds. For so long as any TIFIA Bond or Loan is Outstanding, to the extent any “Variable Interest Rate Obligations” consist of “Put Bonds,” HRTAC agrees to provide and maintain a “Credit Facility” (as such terms are defined in the 2023 TIFIA Loan Agreement) that will pay any amounts payable by HRTAC in respect to such Put Bonds.

Section 8.3 Compliance With Respect to Swap-Related Bonds. For so long as any TIFIA Bond or Loan is Outstanding, in addition to the provisions of the Master Indenture relating to Swap Related Bonds in Section 5.4(a)(3) thereof, HRTAC hereby agrees that it will comply with the provisions requiring “Qualified Hedges” (as defined in the 2023 TIFIA Loan Agreement) if it issues any Senior Bonds or Intermediate Lien Obligations bearing interest at a “Variable Interest Rate” (as such terms are defined in the 2023 TIFIA Loan Agreement), as and to the extent provided in Section 16(l) of the 2023 TIFIA Loan Agreement.

Section 8.4 Issuance of Additional Bonds. For so long as any TIFIA Bond or Loan is Outstanding, HRTAC agrees, with respect to and in addition to the provisions of the Master Indenture relating to the issuance of a Series of Bonds, to satisfy the requirements, as applicable, of paragraphs (a) and (b) of the definition of “Additional Obligations” in the 2023 TIFIA Loan Agreement.

Section 8.5 Additional Terms Relating to a Bond Credit Facility or DSRF Credit Facility. For so long as any TIFIA Bond or Loan is Outstanding, in addition to the provisions of the Master Indenture relating to a “Bond Credit Facility” or a “DSRF Credit Facility,” HRTAC hereby agrees that it will comply with the provisions relating to “Credit Facilities” (as defined in the 2023 TIFIA Loan Agreement) in the 2023 TIFIA Loan Agreement.

Section 8.6 Permitted Investments. For so long as any TIFIA Bond or Loan is Outstanding, and notwithstanding the provisions of the Master Indenture, amounts on deposit in any Fund or Account established under Section 5.1 of this Ninth Series Supplement, other than any amount in the General Fund or Account thereof, must be invested in Permitted Investments (as such term is defined in the 2023 TIFIA Loan Agreement) and amounts on deposit in the TIFIA Series 2023 Interest Account, the TIFIA Series 2023 Principal Account and the TIFIA Series 2023

Redemption Account may only be invested in Permitted Investments that have a maturity that does not extend, respectively, beyond the next applicable Interest Payment Date, Principal Payment Date or redemption date.

Section 8.7 Events of Default.

(a) In addition to the Events of Default under Section 13.1 of the Master Indenture and as provided in Section 13.1(d) thereof, the occurrence and continuation of an Event of Default under Section 19(a)(iii), (iv), (vi), (vii), (viii), (ix), (x), and (xi) of the 2023 TIFIA Loan Agreement shall constitute Events of Default under this Ninth Series Supplement with respect to the TIFIA Series 2023 Bond.

(b) The provisions of this Section 8.7 are subject to the terms and conditions of the Master Indenture, including but not limited to, Article XIII thereof. Failure to pay the principal or any Amortization Requirement of or interest on the TIFIA Series 2023 Bond will not constitute an Event of Default with respect to any Senior Bond or Intermediate Lien Obligation. An Event of Default with respect to the TIFIA Series 2023 Bond shall not cause an Event of Default with respect to any other Series of Bonds unless such event or condition independently constitutes an Event of Default with such other Series of Bonds.

(c) In accordance with the Master Indenture there shall be no rights of acceleration of the TIFIA Series 2023 Bond.

(d) The Trustee shall not be deemed to have notice of any Events of Default set forth under this Section 8.7 unless it receives written notice of such Event of Default(s) from the Commission or the TIFIA Lender.

ARTICLE IX MISCELLANEOUS

Section 9.1 Tax Status. HRTAC intends that the TIFIA Series 2023 Bond shall not be an obligation described in Section 103 of the Internal Revenue Code of 1986, as amended, the interest on which is excludable from the gross income of the holders. HRTAC agrees not to file a Form 8038-G or comparable information return relating to tax-exempt obligations with the Internal Revenue Service.

Section 9.2 Successors and Assigns. This Ninth Series Supplement is binding upon, inures to the benefit of and is enforceable by its parties and their respective successors and assigns.

Section 9.3 Severability. If any provision of this Ninth Series Supplement is held invalid by any court of competent jurisdiction, such holding will not invalidate any other provision.

Section 9.4 Governing Law. This Ninth Series Supplement will be governed by and construed under the applicable laws of the Commonwealth.

Section 9.5 Counterparts. This Ninth Series Supplement may be executed in several counterparts, each of which will be an original, and the counterparts will together constitute one and the same instrument.

Section 9.6 Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the Trustee and HRTAC and their respective successors and assigns, subject to the limitations contained herein.

Section 9.7 Parties Interested. Except as and to the extent provided in Article II hereof, nothing in this Ninth Series Supplement expressed or implied is intended or will be construed to confer upon any Person, other than HRTAC, the Trustee and the Owner(s) of the TIFIA Series 2023 Bond, any right, remedy or claim under or by reason of this Ninth Series Supplement, this Ninth Series Supplement being intended for the sole and exclusive benefit of HRTAC, the Trustee and the Owner(s) of the TIFIA Series 2023 Bond.

[Signature Page Follows]

IN WITNESS WHEREOF, HRTAC and the Trustee have caused this Ninth Series Supplement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Richard W. West
Chair

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Joy Holloway
Vice President

[Signature Page of Ninth Series Supplement]

EXHIBIT A
TIFIA LOAN AGREEMENT

(See Tab No. 6)

EXHIBIT B

FORM OF TIFIA SERIES 2023 BOND

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

HAMPTON ROADS TRANSPORTATION FUND

SEGMENT 4C PROJECT

**(TIFIA – _____)
TIFIA BOND**

**Subordinate Lien Revenue Bond
TIFIA Series 2023**

Maximum Principal Amount: \$[142,720,000] (excluding capitalized interest)

Effective Date: _____, 2023

Due: Earlier of the 35th anniversary of Substantial Completion Date and July 1, 206__

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION, a body politic and political subdivision created under the laws of the Commonwealth of Virginia (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, or its assigns (the “**TIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement (as defined below), being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the TIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with **Exhibit G** to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** to the TIFIA Loan Agreement from time to time in accordance with the terms of the TIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the TIFIA Lender’s determination of such matters as set forth on **Exhibit G** to the TIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other TIFIA Loan Document.

Payments hereon are to be made in accordance with Section 9(d) (*Manner of Payment*) and Section 36 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this TIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts. If the Final Maturity Date is amended in connection with an update to the Financial Plan approved by the TIFIA Lender pursuant to Section 21(a)(iii)(B) (*Financial Plan*) of the TIFIA Loan Agreement, the due date of this TIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the TIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this TIFIA Bond without the prior written agreement of the TIFIA Lender.

This TIFIA Bond has been executed under and pursuant to that certain TIFIA Loan Agreement (Segment 4C), dated as of the date hereof, between the TIFIA Lender and the Borrower (the “**TIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the TIFIA Loan Agreement to repay the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Borrower under the TIFIA Loan Agreement or the other TIFIA Loan Documents referred to therein. Reference is made to the TIFIA Loan Agreement for all details relating to the Borrower’s obligations hereunder. All capitalized terms used in this TIFIA Bond and not defined herein shall have the meanings set forth in the TIFIA Loan Agreement or, as applicable, the Indenture.

This TIFIA Bond is being issued by the Borrower pursuant to Chapter 26, Title 33.2, Code of Virginia of 1950, as amended, a resolution adopted by HRTAC on _____, 2023 and under and pursuant to a Master Indenture of Trust dated as of February 1, 2018 (the “**Master Indenture**”), between the Borrower and Wilmington Trust, National Association, or its successor, as trustee (the “**Trustee**”), as supplemented and amended by the First Supplemental Series Indenture of Trust dated as of February 1, 2018 (the “**First Series Supplement**”), the Second Supplemental Series Indenture of Trust dated as of December 1, 2019 (the “**Second Series Supplement**”), the Third Supplemental Series Indenture of Trust dated as of December 15, 2019 (the “**Third Series Supplement**”), the Fourth Supplemental Series Indenture of Trust dated as of October 1, 2020 (the “**Fourth Series Supplement**”), the Fifth Supplemental Series Indenture of Trust dated as of September 1, 2021 (the “**Fifth Series Supplement**”), the Sixth Supplemental Series Indenture of Trust dated as of September 15, 2021 (the “**Sixth Series Supplement**”), the Seventh Supplemental Series Indenture of Trust dated as of September 21, 2021 (the “**Seventh Series Supplement**”), the Eighth Supplemental Series Indenture of Trust dated as of May 1, 2022 (the “**Eighth Series Supplement**”), the Ninth Supplemental Series Indenture of Trust dated as of _____, 2023 (the “**Ninth Series Supplement**”), and the Tenth Supplemental Series Indenture of Trust dated as of _____, 2023 (the “**Tenth Series Supplement**” and, together with the First Series Supplement, the Second Series Supplement, the Third Series Supplement, the Fourth Series Supplement, the Fifth Series Supplement, the Sixth Series Supplement, the Seventh Series Supplement, the Eighth Series Supplement, the Ninth Series Supplement and the Master Indenture, the “**Indenture**”), between the Borrower and the Trustee, a certified copy of which Indenture is on file at the office of the Borrower.

This TIFIA Bond is issued as and constitutes a Subordinate Obligation within the meaning of such term in the Indenture.

This TIFIA Bond shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any political subdivision thereof (including any Member Locality) other than the Borrower. This TIFIA Bond shall not constitute an indebtedness within the meaning of any debt limitation or restriction except as provided under Section 33.2-1920 of the Virginia Code. *The Borrower's authority to receive any or all of the taxes or other revenues pledged to the Trustee for payment of HRTAC Bonds (as defined below) pursuant to the Indenture is subject to appropriation by the General Assembly of the Commonwealth, and neither the General Assembly nor the Borrower can or will pledge, covenant or agree to impose or maintain at any particular rate or level any of such taxes or other revenues.*

The Indenture provides for the issuance, from time to time, under the conditions, limitations and restrictions therein set forth, of additional series of Bonds for the purpose of financing projects, and of refunding outstanding obligations of the Borrower. Such additional series of Bonds may be issued as Senior Obligations, Intermediate Lien Obligations, or Subordinate Obligations (as defined in the Indenture). This TIFIA Bond, together with all other obligations heretofore or hereafter issued under the provisions of the Indenture, are herein collectively referred to as the "HRTAC Bonds". Reference is hereby made to the Indenture for the provisions, among others, with respect to the terms and conditions on which the HRTAC Bonds of each series are or may be issued, the custody and application of the proceeds of HRTAC Bonds issued under the Indenture, the collection and disposition of revenues, the funds charged with and pledged to the payment of the interest on and the principal and premium, if any, of the HRTAC Bonds, the nature and extent of the security, the rights, duties and obligations of the Borrower, the Trustee and any paying agent for the HRTAC Bonds and the rights of the owners of the HRTAC Bonds. Certain of such funds, accounts and subaccounts secure only the Senior Obligations, certain of such funds, accounts and subaccounts secure only the Intermediate Lien Obligations, and certain of such funds, accounts and subaccounts secure only the Subordinate Obligations, all as more fully described in the Indenture.

This TIFIA Bond shall be subject to mandatory prepayment in accordance with the TIFIA Loan Agreement.

This TIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$1,000,000), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the TIFIA Bond in accordance with the TIFIA Loan Agreement.

Any delay on the part of the TIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

The owner of this TIFIA Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute any suit or other proceeding with respect to the Indenture, except as provided in the Indenture.

All acts, conditions and things required by the Constitution and laws of the Commonwealth to happen, exist, and be performed precedent to and in the issuance of this TIFIA Bond have happened, exist and have been performed as so required. This TIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the Commonwealth shall govern its construction to the extent such federal laws are not applicable.

This TIFIA Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until the Trustee has executed the Certificate of Authentication appearing on this TIFIA Bond and inserted the date of authentication.

IN WITNESS WHEREOF, HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION has caused this TIFIA Bond to be signed by the manual or facsimile signature of its Chair, to be attested by the manual or facsimile signature of its Executive Director and this Bond to be dated the Effective Date set forth above.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Richard W. West
Chair

ATTEST:

By: _____
Kevin B. Page
Executive Director

CERTIFICATE OF AUTHENTICATION

This TIFIA Bond is the TIFIA Bond described in the within-mentioned Indenture.

Authentication Date: _____, 2023

**WILMINGTON TRUST, NATIONAL
ASSOCIATION**

By: _____
Joy Holloway
Vice President

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns and transfers unto

(Please Insert Social Security or other identifying number of Assignee(s)):

the within note and all rights thereunder.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within note in every particular, without alteration or enlargement or any change whatever.

EXHIBIT C

FORM OF REQUISITION

Wilmington Trust, National Association, as Trustee

Requisition No. _____

Dated: _____

Attn: _____

Re: Direction to Make Disbursements from the TIFIA Series 2023 Project Fund for the
HRTAC Hampton Roads Transportation Fund Subordinate Lien Revenue Bond
TIFIA Series 2023

Pursuant to Section 6.3 of the Ninth Supplemental Indenture dated as of _____, 2023 (the "Ninth Series Supplement"), between the Hampton Roads Transportation Accountability Commission ("HRTAC"), and Wilmington Trust, National Association, as trustee (the "Trustee"), the Trustee is directed to disburse from the TIFIA Series 2023 Project Fund the amount indicated below.

Each capitalized terms not otherwise defined herein has the same meaning as used in the Ninth Series Supplement.

The undersigned certifies as follows:

1. The name(s) and address(es) of the person(s), firm(s) or corporation(s) to whom the disbursement(s) are due and the amounts to be disbursed are as follows:

Name and Address

Amount

[Use an additional page if necessary.]

2. The total amount to be disbursed is \$ _____.

3. The project for which the obligation(s) to be paid was/were incurred:

_____.

4. The undersigned is a "HRTAC Representative" within the meaning of the Ninth Series Supplement and the Master Indenture defined therein.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
HRTAC Representative

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

TIFIA LOAN AGREEMENT

For Up to [\$142,905,000]

With

**HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY
COMMISSION**

For the

**HAMPTON ROADS EXPRESS LANES NETWORK – SEGMENT 4C
PROJECT
(TIFIA – [_____])**

Dated as of [_____] , 2023

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions.....	2
Section 2. Interpretation.....	28
Section 3. TIFIA Loan Amount.....	29
Section 4. Disbursement Conditions.....	29
Section 5. Term.....	32
Section 6. Interest Rate	32
Section 7. Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule.....	32
Section 8. Security and Priority; Flow of Funds.....	33
Section 9. Payment of Principal and Interest.....	33
Section 10. Prepayment	34
Section 11. Compliance with Laws	36
Section 12. Conditions Precedent	36
Section 13. Representations and Warranties of Borrower	45
Section 14. Representations and Warranties of TIFIA Lender.....	52
Section 15. Affirmative Covenants.....	52
Section 16. Negative Covenants	63
Section 17. Indemnification	66
Section 18. Sale of TIFIA Loan.....	67
Section 19. Events of Default and Remedies.....	68
Section 20. Accounting and Audit Procedures; Inspections; Reports and Records	72
Section 21. Financial Plan, Statements, and Reports.....	73
Section 22. Project Oversight and Monitoring	77
Section 23. No Personal Recourse	79
Section 24. No Third Party Rights.....	79
Section 25. Borrower's Authorized Representative.....	79
Section 26. TIFIA Lender's Authorized Representative	79
Section 27. Servicer	80
Section 28. Fees and Expenses	80
Section 29. Amendments and Waivers	81
Section 30. Governing Law	81
Section 31. Severability and Conflicts.....	81

Section 32.	Successors and Assigns.....	82
Section 33.	Remedies Not Exclusive	82
Section 34.	Delay or Omission Not Waiver.....	82
Section 35.	Counterparts; Electronic Signatures	82
Section 36.	Notices; Payment Instructions	83
Section 37.	Effectiveness	84
Section 38.	Termination.....	84
Section 39.	Integration	84

SCHEDULE I– Project Budget

SCHEDULE II – Construction Schedule

SCHEDULE III– Existing Indebtedness

EXHIBIT A– Form of TIFIA Bond

EXHIBIT B– Anticipated TIFIA Loan Disbursement Schedule

EXHIBIT C – Non-Debarment Certification

EXHIBIT D – Requisition Procedures

EXHIBIT E – Compliance With Laws

EXHIBIT F – Reserved

EXHIBIT G – TIFIA Debt Service

EXHIBIT H-1 – Opinions Required from Counsel to Borrower

EXHIBIT H-2 – Opinions Required from Bond Counsel

EXHIBIT I – Reserved

EXHIBIT J – Form of Certificate of Trustee

EXHIBIT K-1 – Form of Borrower’s Effective Date Officer’s Certificate

EXHIBIT K-2 – Form of Borrower’s 2023 Project BANs Closing Date Officer’s Certificate]

EXHIBIT L – Form of Certificate of Substantial Comp

EXHIBIT M – TIFIA Loan Reamortization Methodology

EXHIBIT N – Certification Regarding Lobbying

EXHIBIT O – Sections 8.1(b) and 8.5(b) of the Indenture (amended as of the Effective Date)

EXHIBIT P – Reporting Subawards and Executive Compensation

TIFIA LOAN AGREEMENT

THIS TIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is by and between the **HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION**, a body politic and a political subdivision created under the laws of the Commonwealth of Virginia (the “**State**”), with an address of The Regional Building, 723 Woodlake Drive, Chesapeake, Virginia 23320 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**TIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America (the “**Congress**”) has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States of America and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 (“**TIFIA**”), as codified at 23 U.S.C. §§ 601-609 (as amended from time to time, the “**Act**”); and

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

WHEREAS, the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in a principal amount not to exceed [\$142,905,000] (excluding interest that is capitalized in accordance with the terms hereof) (such amount, the “**Maximum TIFIA Loan Amount**”) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for TIFIA credit assistance dated [____], 2023 (the “**Application**”); and

WHEREAS, on [____], 2023, the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of the TIFIA Loan; and

[WHEREAS, it is contemplated that, on the 2023 Project BANs Closing Date (as defined herein), the Borrower and the Trustee shall enter into the 2023 Project BANs Supplemental Indenture (as defined herein) pursuant to which the Borrower shall authorize the issuance of the 2023 Project BANs (as defined herein), the proceeds of which shall be used to provide interim financing for a portion of the Eligible Project Costs related to the Project; and]

WHEREAS, pursuant to the Indenture and each Supplemental Indenture (as defined herein), the Borrower has pledged and granted to the Trustee (as defined herein) the hereinafter defined Trust Estate, which secures the repayment of Bonds issued by the Borrower, including the TIFIA Bond (as defined herein), based on their respective lien priority; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the TIFIA Bond in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the HRTAC Act (as defined herein), the dedication and availability of the HRTF Revenues, and the Base Case Projections (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

Section 1. Definitions.

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 (Definitions) or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

["**2023 Project BANs**" means, the Borrower's [Senior] Lien Bond Anticipation Notes, Series 2023A issued on or about [____], 2023, in the not to exceed par amount of \$[____], the proceeds of which are anticipated to be applied to the payment of Eligible Project Costs.]

["**2023 Project BANs Bond**" means the bond or note evidencing the issuance of the 2023 Project BANs.]

["**2023 Project BANs Closing Date**" means the date 2023 Project BANs are issued.]

["**2023 Project BANs Supplemental Indenture**" means that certain [____] Supplemental Series Indenture of Trust to the Indenture between the Borrower and the Trustee, dated as of [____], 2023, relating to the 2023 Project BANs.]

"**Acceptable Credit Rating**" means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, a Credit Facility, or a repurchase obligation to fund any Reserve Account, "A+", "A1" or the equivalent rating from at least one (1) Rating Agency that provides a rating on such Person's unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, 'A', 'A2' or the equivalent rating from at least one (1) Rating Agency that provides a rating on such Person's unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

"**Acceptable Letter of Credit**" means a letter of credit, in form and substance satisfactory to the TIFIA Lender, issued by a Qualified Issuer, that is non-recourse to the Pledged Revenues.

“Accreted Value” means, with respect to any Capital Appreciation Bonds, as of any Valuation Date or for any period, the amount set forth for such date or period as determined in accordance with the Supplemental Indenture authorizing such Capital Appreciation Bonds.

“Act” means the Act as defined in the recitals hereto.

“Additional Obligations” means any borrowings or indebtedness issued or incurred under the Indenture after the Effective Date and shall also satisfy the following requirements, as applicable:

(a) if the proceeds thereof will be used to refinance any Senior Obligations, Intermediate Lien Obligations, or Subordinate Obligations and are issued on the same lien level as the proposed refunded obligations, (i) such Additional Obligations must receive a rating from a Rating Agency of equivalent to the lesser of the rating on the obligations being refinanced with the proceeds of the Additional Obligations as of the Effective Date or the most recent rating of such obligations provided in accordance with Section 16(j) (Annual Rating), (ii) the net proceeds thereof (after deducting any amounts required to be deposited to satisfy the respective Debt Service Reserve Requirement or required to pay costs of issuance) must not exceed interest owed to the call date plus the principal amount of the respective obligations outstanding and being refinanced, (iii) the respective lien level Debt Service, after the incurrence of such Additional Obligations, in each year of the remaining term of the TIFIA Loan, must be projected to be less than the respective lien level Debt Service projected for each such year in the Base Case Projections, and (iv) the stated maturity of such Additional Obligations shall not exceed the stated maturity for the obligations being refinanced with the proceeds of the Additional Obligations; and

(b) if the proceeds thereof will be used for any reason not described in clause (a) above, the Borrower shall provide the TIFIA Lender a certificate of the Borrower's Authorized Representative, in a form reasonably acceptable to the TIFIA Lender (including the calculations supporting such certificate), certifying that (i) the activity or project to which such Additional Obligation proceeds will be applied could not reasonably be expected to result in a Material Adverse Effect; (ii) the Borrower has satisfied the requirements for issuing the Additional Obligations in accordance with the applicable provisions of the Indenture or Supplemental Indenture existing as of the Effective Date, including, specifically, that during any twelve consecutive months of the eighteen months preceding the issuance of the Additional Obligations, (A) the HRTAC Revenues were not less than (1) 2.00 times the maximum annual Principal and Interest Requirements (as defined in the Indenture) during the current or any future Fiscal Year (as defined in the Indenture) on the Senior Obligations then outstanding plus, if such Additional Obligations are Senior Obligations, such Additional Obligations, and (2) 1.50 times the maximum annual Principal and Interest Requirements (as defined in the Indenture) during the current or any future Fiscal Year (as defined in the Indenture) on the Senior Obligations and Intermediate Lien Obligations then outstanding plus, if such Additional Obligations are Intermediate Lien Obligations, such Additional Obligations, and (B) the Total Debt Service Coverage Ratio, including debt service for the Additional Obligations to be issued, for each Calculation Period is projected to be not less than 1.35 to 1.00 while any Subordinate Obligations issued to the TIFIA Lender remain outstanding;

provided that (x) for each of clauses (a) and (b) above, no Event of Default under any Indenture Document or this Agreement has occurred and is continuing, and (y) for clause (b) above, the Rating Agency that provided the most recent public ratings of the TIFIA Loan in accordance with Section 15(i) (*Annual Rating*) shall have provided a confirmation or affirmation (or the equivalent) that the incurrence of such Additional Obligations shall not result in a downgrade of the credit rating of any Subordinate Obligations issued to the TIFIA Lender then outstanding below “A-” or “A3”.

“Additional Project Contracts” means any contract, agreement, letter of intent, understanding or instrument (other than a Principal Project Contract) entered into by the Borrower or VDOT after the Effective Date, providing for the design, construction, testing, and start-up, of the Project, or the safety, financial services, operation or maintenance of the Project, or otherwise relating to the Project, including any master contract providing goods or services for multiple projects or assets including the Project; provided, however, that a contract or agreement shall not constitute an Additional Project Contract if it (a) is entered into (i) in the ordinary course of business in connection with the furnishing of goods or the performance of services or (ii) for necessary Project-related expenditures, (b) commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower in one contract or a series of related contracts of, no more than \$2,500,000 (inflated annually by the annual change in CPI) in the aggregate for any such contract or series of related contracts allocable to the Project or payable from Revenues and (c) is for a term not exceeding two (2) years (including any contract term renewals).

“Additional TIFIA Loans” means any additional secured loans made by the TIFIA Lender to the Borrower issued pursuant to the Indenture Documents and secured by the Pledged Revenues.

“Additional Tolled Lanes” means any lane, other than those lanes that are already part of the Express Lanes Initial Project described in the definition of “Express Lanes Network”, on I-64 or other roadways within Hampton Roads that (a) is part of a segment that has been expanded, constructed, or improved with “Commission-Controlled Money” (as defined in the MTA), or (b) would be within the Hampton Roads Beltway (as defined in the MTA), if any, added under the provisions of the MTA.

“Agreement” has the meaning provided in the preamble hereto.

“Anticipated TIFIA Loan Disbursement Schedule” means the schedule set forth in **Exhibit B**, reflecting the anticipated disbursement of proceeds of the TIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(c) (*Disbursement Conditions*).

“Anti-Corruption Laws” means all U.S. and other applicable laws, rules and regulations, as amended from time to time, concerning or related to bribery or corruption.

“Anti-Money Laundering Laws” means all U.S. and other applicable laws, rules and regulations, as amended from time to time, concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

“Application” has the meaning provided in the recitals hereto.

“Appreciated Value” means, with respect to any Deferred Income Bond as of any Valuation Date or for any period, the amount set forth for such date or period as determined in accordance with the Supplemental Indenture authorizing such Deferred Income Bond.

“Bank Lending Margin” means in respect of any Variable Interest Rate Obligations, the **“Applicable Margin”** or comparable interest rate margin as defined in the financing documents related to such Variable Interest Rate Obligations.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970 (Titles I and II of Pub. L. No. 91-508, codified at 12 U.S.C. §§ 1829b and 1951-1960 and 31 U.S.C. §§ 312, 5311-5313, and 5316-5322), as amended from time to time, and any successor statute of similar import, and the regulations promulgated thereunder.

“Bankruptcy Related Event” means, with respect to any Person,

(a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of TIFIA Debt Service in accordance with the provisions of Section 9 (*Payment of Principal and Interest*), (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law;

(c) solely with respect to the Borrower, (i) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Bonds, or (ii) the Trustee shall commence a process pursuant

to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of pursuant to a sale or disposition of such Trust Estate in lieu of foreclosure; or

(d) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bondholders, funds on deposit in any of the Project Funds upon the occurrence and during the continuation of an Event of Default under the Indenture Documents for application to the prepayment or repayment of any principal amount of the Bonds other than in accordance with the provisions of the Indenture.

“Base Case Financial Model” means a financial model prepared by (or on behalf of) the Borrower forecasting the revenues and expenditures of the Project for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender as of the Effective Date, which model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model or such other format requested by the TIFIA Lender.

“Base Case Projections” means the initial forecast for the Borrower prepared as of the Effective Date using the Base Case Financial Model.

“Bond Anticipation Notes” means bond anticipation notes issued by the Borrower to provide interim financings that are anticipated to be refunded or refinanced with proceeds of Additional Obligations.

“Bonds” means any Senior Obligations, Intermediate Lien Obligations, Subordinate Obligations (including the TIFIA Bond), or any other evidences of indebtedness for borrowed money issued by the Borrower from time to time pursuant to Article V of the Indenture and the terms of any applicable Supplemental Indenture.

“Bondholder” means, when used with respect to the TIFIA Bond, the TIFIA Lender and, when used with respect to any other Bond, the registered owner of such Bond.

“Borrower” has the meaning provided in the preamble hereto.

“Borrower Fiscal Year” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the TIFIA Lender, as provided in Section 16(e) (*Organizational Documents; Fiscal Year*).

“Borrower Related Party” means, individually or collectively, the Borrower and VDOT.

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 25 (*Borrower’s Authorized Representative*).

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, or Chesapeake, Virginia.

“Calculation Date” means each January 1 and July 1 occurring after the Effective Date.

“Calculation Period” means a twelve (12) month period ending on a Calculation Date.

“Capital Appreciation Bonds” means any Permitted Debt hereafter incurred as to which interest is payable only at the maturity or prior redemption of such Permitted Debt.

“Capitalized Interest Period” means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period.

“Congress” has the meaning provided in the recitals hereto.

“Construction Contractor” means the Design-Builder, each member of the Design-Builder consortium (as of the Effective Date, as listed in the definition of Design-Builder), and each Tolling Systems Provider.

“Construction Period” means the period from the Effective Date through the Substantial Completion Date.

“Construction-Related Contracts” means Commonwealth of Virginia Department of Transportation Bid Proposal and Contract (Contract ID. No.: C00117841DB111), dated July 25, 2022, between VDOT and the Design-Builder.

“Construction Schedule” means, collectively, (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached hereto as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently submitted to the TIFIA Lender pursuant to Section 21(a)(iii)(B) (*Financial Plan*).

“Consulting Engineer” means an engineering firm to be selected by the Borrower and approved by the TIFIA Lender prior to the initial disbursement of the TIFIA Loan and any replacement engineering firm selected by the Borrower, subject to Section 22(d) (*Consulting Engineer*).

“Control” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms **“Controlling”** and **“Controlled by”** have meanings correlative to the foregoing.

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2023 as the base period.

“Credit Facility” means any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing),

which is obtained by the Borrower and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Permitted Debt.

“Debt Service Fund” has the meaning provided in the Indenture.

“Debt Service Payment Commencement Date” means the earlier of (a) [January 1, 2028] and (b) the first (1st) Semi-Annual Payment Date immediately succeeding the Substantial Completion Date.

“Debt Service Reserve Fund” has the meaning provided in the Indenture.

“Debt Service Reserve Requirement” has the meaning provided in the Indenture.

“Default” means any event or condition that, with the giving of notice, the passage of time, or both, would constitute an Event of Default.

“Default Rate” means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) two percent (2.00%).

“Deferred Income Bond” means any Permitted Debt (a) as to which interest accruing thereon prior to the applicable Interest Commencement Date of such Permitted Debt is (i) compounded on each Valuation Date for such Deferred Income Bond and (ii) payable only at the maturity or prior redemption of such Permitted Debt and (b) as to which interest accruing after the applicable Interest Commencement Date is payable on the first interest payment date immediately succeeding the Interest Commencement Date and thereafter on the dates specified in or determined pursuant to the Supplemental Indenture authorizing the Permitted Debt. For the purposes of receiving payment of the redemption price if a Deferred Income Bond is redeemed prior to maturity, the principal amount of a Deferred Income Bond shall be deemed to be its Appreciated Value.

“Design-Builder” means Shirley-Branch Joint Venture, [an unincorporated] joint venture comprised of its members, Shirley Contracting Company, LLC, the Branch Group, the Dewberry Companies, Inc., McLean Contracting Company, and STV Incorporated.

“Development Default” means (a) VDOT fails to diligently prosecute the work related to the Project or (b) VDOT fails to complete the Project by the third (3rd) anniversary of the Projected Substantial Completion Date.

“Effective Date” means the date of this Agreement.

“Electronic Signature” means any electronic symbol or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign such contract or record pursuant to the Uniform Electronic Transactions Act, Va. Code 59.1-479 et seq., as amended from time to time.

“Electronic Toll Collection Agreement” means any Electronic Toll Collection Agreement entered into between the Borrower and VDOT.

“Eligible Project Costs” means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, including prior Project expenditures for the 5-year period preceding the date of the Application, all of which shall arise from the following:

- (a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;
- (b) construction, reconstruction, rehabilitation, replacement and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies and acquisition of equipment; or
- (c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction.

“Environmental Laws” has the meaning provided in Section 13(s) (*Environmental Matters*).

“ERISA” means the Employee Retirement Income Security Act of 1974, Pub. L. 93-406 (29 U.S.C. § 1001 *et seq.*), as amended from time to time, and any successor statute of similar import, and the regulations thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Tax Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Tax Code, is treated as a single employer under Section 414 of the Tax Code.

“Event of Default” has the meaning provided in Section 19(a) (*Events of Default and Remedies*).

“Excess Revenues” means, following the occurrence of a Revenue Sharing Trigger Event and until such time as the Revenue Sharing Trigger Event ends, an amount in each month equal to 50% of the Pledged Revenues remaining after the transfers described in paragraphs FIRST through TENTH of Section 8.1(b) and paragraphs FIRST through FOURTH of Section 8.5(b) of the Indenture (in that order) have occurred (a copy of such sections, following their amendment pursuant to the TIFIA Supplemental Indenture, is attached hereto as **Exhibit O**).

“Executive Director” has the meaning provided in the preamble hereto.

“Existing Indebtedness” means indebtedness of the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in **Schedule III**.

“Express Lanes Network” means a network of planned 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 constituting the “*Initial Interstate 64 Express Lanes Network*” or “*Initial Network*” as described in the MTA and referred to herein as the “**Express Lanes Initial Project**”), as depicted on Exhibit A to the Indenture, and consisting of the Express Lanes Initial Project and subsequent Express Lanes Future Project(s) that comprise a segment, phase or portion of the Express Lanes Network, including but not limited to any Additional Tolled Lanes (as defined in the Indenture).

“**Federal Government**” means the United States of America and its departments and agencies.

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Federal Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**FHWA**” means the Federal Highway Administration, an agency of the USDOT.

“**FHWA Division Office**” means the Virginia Division Office of the FHWA.

“**Final Maturity Date**” means the earlier of (a) the Semi-Annual Payment Date occurring on or immediately prior to the 35th anniversary of the Substantial Completion Date and (b) July 1, 2061.

“**Financial Plan**” means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 21(a) (*Financial Plan*) and (b) any updates thereto required pursuant to Section 21(a) (*Financial Plan*).

“**Financial Statements**” has the meaning provided in Section 13(z) (*Financial Statements*).

“**GASB**” means generally accepted accounting principles for state and local governments, which are the uniform minimum standards of and guidelines for financial accounting and reporting prescribed by the Governmental Accounting Standards Board.

“**General Assembly**” means the state legislature for the Commonwealth of Virginia.

“**General Fund**” has the meaning provided in the Indenture.

“**Government Obligations**” means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Federal Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land Banks, (c) obligations issued or guaranteed by a Person Controlled or supervised by and acting as an instrumentality of the Federal Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the

custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

“Governmental Approvals” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“Governmental Authority” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“Hedging Agreement” means (a) any ISDA Master Agreement(s) and the related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

“Hedging Banks” means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging Agreements; provided that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon the early unwind of all or a portion of such Hedging Agreements. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Transaction” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar

interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases and not for any speculative purpose.

“HRBT HRTF TIFIA Bond” means the Bond delivered by the Borrower in connection with the HRBT HRTF TIFIA Loan Agreement.

“HRBT HRTF TIFIA Loan” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth in the HRBT HRTF TIFIA Loan Agreement and as evidenced by the Borrower’s issuance of the HRBT HRTF TIFIA Bond.

“HRBT HRTF TIFIA Loan Agreement” means that certain TIFIA Loan Agreement (HRTF Revenues), dated as of September 21, 2021, between the TIFIA Lender and the Borrower.

“HRBT HRTF TIFIA Loan Documents” means the HRBT HRTF TIFIA Loan Agreement, the HRBT HRTF TIFIA Bond, and the TIFIA Supplemental Indenture (as defined in the HRBT HRTF TIFIA Loan Agreement).

“HRTAC Act” means Chapter 26 of Title 33.2 of the Code of Virginia of 1950, as amended.

“HRTAC Project TIFIA Bond” means the Bond delivered by the Borrower in connection with the HRTAC Project TIFIA Loan Agreement.

“HRTAC Project TIFIA Loan” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth in the HRTAC Project TIFIA Loan Agreement and as evidenced by the Borrower’s issuance of the HRTAC Project TIFIA Bond.

“HRTAC Project TIFIA Loan Agreement” means that certain TIFIA Loan Agreement (HRTAC Project), dated as of September 21, 2021, between the TIFIA Lender and the Borrower.

“HRTAC Project TIFIA Loan Documents” means the HRTAC Project TIFIA Loan Agreement, the HRTAC Project TIFIA Bond, and the TIFIA Supplemental Indenture (as defined in the HRTAC Project TIFIA Loan Agreement).

“HRTAC Revenues” means, in any period, (a) all of the HRTF Revenues received by the Borrower during such period, and (b) any and all other revenues available under the HRTAC Act that have been designated as HRTAC Revenues pursuant to a Supplemental Indenture, but shall not include toll revenues.

“HRTF” means the Hampton Roads Transportation Fund established pursuant to the HRTAC Act.

“HRTF Revenues” means the revenues dedicated to the HRTF from the additional sales and use tax revenues described in Va. Code Section 58.1-638.H.2 and the additional wholesale motor vehicle sales tax revenues described in Va. Code Section 58.1-2295.A.2, together with any other funds that may be appropriated to the HRTF.

“HRTF TIFIA Maximum Annual Debt Service” means the highest annual aggregate amount, for the present or any succeeding Fiscal Year, of the sum of (i) TIFIA Debt Service hereunder, (ii) debt service on the HRTAC Project TIFIA Bond and (iii) debt service on the HRBT HRTF TIFIA Bond.

“HRTF Transfer” means any transfer of HRTF Revenues pursuant to the Fifth Supplemental Series Indenture of Trust, dated as of September 1, 2021, between the Borrower and the Trustee for the purpose of funding: (a) the initial and, thereafter, the annual deposits (if any) to the Revenue Stabilization Fund (as defined in the Toll Indenture), (b) the initial deposit to the TIFIA Loan Reserve Account (as defined in the Toll Indenture), in an amount equal to the TIFIA Debt Service Reserve Required Balance (as defined in the Toll Indenture), and (c) the initial and, thereafter, the periodic deposits (if any) to the HRTF Account in the Major Maintenance and Renewal Fund (each as defined in the Toll Indenture).

“Indemnitee” has the meaning provided in Section 17 (*Indemnification*).

“Indenture” means that certain Master Indenture of Trust, dated as of February 1, 2018, between the Borrower and the Trustee, as supplemented or amended from time to time in accordance with its terms.

“Indenture Documents” means the Indenture, each Supplemental Indenture, each Hedging Agreement, each Credit Facility, and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“Interest Commencement Date” means, with respect to any particular Deferred Income Bond, the date determined by the Supplemental Indenture for such Deferred Income Bond after which interest accruing on such Deferred Income Bond shall be payable on the first interest payment date succeeding such Interest Commencement Date and periodically thereafter on the dates determined pursuant to such Supplemental Indenture.

“Intermediate Lien Debt Service” means, with respect to the Intermediate Lien Obligations, for any period, as of any date of calculation, an amount equal to the sum of all fees and interest and principal of Intermediate Lien Obligations accruing and payable in respect of such period, as set forth in the most recent Revised Financial Model. In determining the principal amount of Intermediate Lien Obligations due in such period (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization), payment shall be assumed to be made in accordance with any amortization schedule established for such Intermediate Lien Obligations, including any scheduled redemption of Permitted Debt on the basis of Accreted Value or Appreciated Value, as applicable, and for such purpose the redemption payment shall be deemed a principal payment.

In calculating Intermediate Lien Debt Service for any future period (except as otherwise specifically provided herein):

(a) any Permitted Debt bearing interest at a Variable Interest Rate shall be deemed to bear interest at the Bank Lending Margin plus the fixed rate on the applicable Qualified Hedge (which shall reflect any premium or margin payable thereon);

(b) to the extent the requirements of Section 15(m) (*Hedging*) have been waived so that clause (a) of this definition no longer applies, any Variable Interest Rate Bonds for which the interest rate payable thereon has not yet been determined shall be deemed to bear interest at all times prior to the maturity date thereof at a rate which is the highest twelve (12) month rolling average of one (1) month [LIBOR] over the past ten (10) years preceding the date of calculation plus the Bank Lending Margin; provided that if such index is no longer published, the index to be used shall be that index which the TIFIA Lender, in consultation with the Borrower, determines most closely replicates it;

(c) any Put Bonds outstanding during such period which by their terms are not required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the stated maturity date thereof;

(d) any Put Bonds outstanding during such period which by their terms are required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the earliest to occur of (i) the stated maturity date thereof, (ii) the date provided in the applicable Supplemental Indenture, or (iii) if the Credit Facility securing such Put Bonds expires within six (6) months or less of the date of calculation and has not been renewed or replaced, the expiration date of such Credit Facility;

(e) the principal amount of any Put Bonds tendered for payment by the Borrower which are required to be paid by the Borrower which have not yet been purchased in lieu of such payment by the Borrower shall be deemed to mature on the date required to be paid pursuant to such tender;

(f) the principal and/or interest portion (whether by redemption or otherwise) of Capital Appreciation Bonds and Deferred Income Bonds shall be the Accreted Value and Appreciated Value thereof, respectively, due and payable in respect of such period;

(g) [the principal and interest payments (excluding capitalized interest) for all or any portion of any of the Series 2023A Project BANs which is scheduled to be defeased with the proceeds of the HRTAC Project TIFIA Loan shall be assumed to be the principal and interest portion of the TIFIA Debt Service, as defined in the HRTAC Project TIFIA Loan Agreement and attached as Exhibit G thereto, with such amounts being included as Subordinate Debt Service and excluded from Intermediate Lien Debt Service; and]

(h) the schedule of principal and interest payments (excluding capitalized interest) for any Bond Anticipation Notes shall be assumed to be the principal and interest payments schedule of the corresponding series of Intermediate Lien Obligations issued or authorized to be issued for the purpose of providing proceeds to refund or refinance such Bond Anticipation Notes; provided, however and notwithstanding the foregoing, any

principal and interest payments which are scheduled to become due and payable prior to the issuance of the Intermediate Lien Obligations shall be calculated based on the actual principal and interest payments schedule (excluding capitalized interest) for the Bond Anticipation Notes.

“Intermediate Lien Debt Service Fund” means any debt service fund created for the benefit of one or more series of Intermediate Lien Obligations pursuant to the Indenture and any Supplemental Indenture.

“Intermediate Lien Debt Service Reserve Fund” means any debt service reserve fund created for the benefit of one or more series of Intermediate Lien Obligations pursuant to the Indenture and any Supplemental Indenture.

“Intermediate Lien Debt Service Reserve Requirement” means any debt service reserve requirement relating to the Intermediate Lien Obligations established in accordance with the provisions of the Indenture and any Supplemental Indenture.

“Intermediate Lien Obligations” means any Bonds issued under the Indenture and designated as being subordinate as to payment and security to the Senior Obligations but senior as to payment and security to the Subordinate Obligations.

“ISDA Master Agreement” means a master agreement, entered into by the Borrower and a Hedging Bank, in the form published by the International Swaps and Derivatives Association, Inc.

[**“LIBOR”** means, for any day, the 1-month London Interbank Offered Rate for deposits in the applicable currency as set by the British Banks Association (or the successor thereto if the British Bankers Association is no longer making a London Interbank Offered Rate available) (“BBA”) and published by the BBA at approximately 11:00 a.m. London time on such day. For any day that is not a Business Day, the LIBOR for such day shall be the rate published by the BBA on the immediately preceding Business Day.]

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“Loan Amortization Schedule” means the Loan Amortization Schedule reflected in the applicable of column **Exhibit G**, as amended from time to time in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Material Adverse Effect” means a material adverse effect on (a) the collective components of the Project or the Trust Estate, (b) the business, operations, properties, condition (financial or otherwise), powers or revenues of the Borrower, (c) the legality, validity or enforceability of any material provision of any Indenture Document, TIFIA Loan Document or

Principal Project Contract, (d) the ability of the Borrower or any other Principal Project Party to enter into, perform or comply with any of its material obligations under any Indenture Document, TIFIA Loan Document or Principal Project Contract to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the Indenture Documents on the Trust Estate in favor of the Secured Parties or (f) the TIFIA Lender's rights or remedies available under any TIFIA Loan Document.

"Maximum TIFIA Loan Amount" has the meaning provided in the recitals hereto.

"MMRF HRTF Cumulative Transfer Cap" means, as of each measurement date, the total of expected Major Maintenance and Renewal Fund Permitted Expenditures (as defined in the Toll Indenture) from such measurement date to the final maturity of all Obligations issued under the Toll Indenture then Outstanding, as estimated by the Consulting Engineer and initially based, using an initial measurement date in Fiscal Year 2026, on a forecast of estimated life cycle maintenance costs with respect to the Tolling Infrastructure and System. The MMRF HRTF Cumulative Transfer Cap is subject to change biennially based on the nature and extent of the Toll Roads System and then-current information regarding Major Maintenance and Renewal Fund Permitted Expenditures prepared by the Borrower and certified by the Consulting Engineer.

"MTA" means that certain Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network, dated as of August 18, 2020, by and among the Borrower, VDOT, and the Commonwealth Transportation Board.

"NEPA" means the National Environmental Policy Act of 1969, Pub. L. 91-190 (42 U.S.C. § 4321 *et seq.*), and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

"NEPA Determination" means that certain Categorical Exclusion, dated as of December 15, 2021, for the Hampton Roads Express Lanes - Segment 4c.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Operating Account" has the meaning provided in the Indenture.

"Operating Expenses" has the meaning provided in the Indenture.

"Operating Fund" has the meaning provided in the Indenture.

"Operating Reserve Account" has the meaning provided in the Indenture.

"Operating Reserve Requirement" has the meaning provided in the Indenture.

"Organizational Documents" means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational

documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“Outstanding TIFIA Loan Balance” means the aggregate principal amount drawn by the Borrower and then outstanding (including capitalized interest) with respect to the TIFIA Loan, as determined in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Patriot Act” means the USA PATRIOT Act, also known as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, as amended from time to time, and any successor statute of similar import, and the regulations promulgated thereunder.

“Payment Default” has the meaning provided in Section 19(a)(i) (*Payment Default*).

“Payment Period” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date, commencing with the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the TIFIA Loan; and
- (c) Additional Obligations (including other Subordinate Obligations issued to the TIFIA Lender) that satisfy each of the requirements in the definition thereof.

“Permitted Hedging Termination” means the early termination, in whole or in part, of any Qualified Hedge (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Qualified Hedge is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any Hedging Agreement evidencing such Qualified Hedge that provides for the notional amount of such Qualified Hedge to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 15(m)(vii) (*Hedging*).

“Permitted Investments” means (with respect to the investment of the proceeds of the TIFIA Loan or any construction or reserve account established and maintained pursuant to the Indenture) the following obligations subject to additional restrictions included in the Investment of Public Funds Act, Chapter 45, Title 2.2, Code of Virginia 1950, as amended and the Security for Public Deposits Act, Chapter 44, Title 2.2, Code of Virginia 1950, as amended:

- (a) Government Obligations;
- (b) obligations of the United States Federal Housing Administration, the United States Farmers Home Administration, the United States Postal Service, and any other agency or instrumentality of the United States of America now or hereafter created, which obligations are backed by the full faith and credit of the United States of America;
- (c) obligations of the Federal National Mortgage Association, Federal Financing Bank, Federal Farm Credit System, and Federal Home Loan Mortgage Corporation;
- (d) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Federal Government;
- (e) repurchase agreements with counterparties that have an Acceptable Credit Rating, when collateralized by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;
- (f) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated in one of the two (2) highest Rating Categories for comparable types of obligations by any Rating Agency;
- (g) money market funds that invest solely in obligations of the United States of America, its agencies and instrumentalities, and having a rating by a Rating Agency equal to the then applicable rating of the United States of America by such Rating Agency;
- (h) investments pursuant to the Government Non-Arbitrage Act, Chapter 47, Title 2.2, Code of Virginia, 1950, as amended, that have been rated “AAAm-G,” “AAAm” or the equivalent rating by each Rating Agency that provides a rating on such obligations; and
- (i) investments pursuant to the Local Government Investment Pool Act, Chapter 46, Title 2.2, Code of Virginia, 1950, as amended, that have been rated “AAAm-G,” “AAAm” or the equivalent rating by each Rating Agency that provides a rating on such obligations.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“Pledged Revenues” means all of the HRTAC Revenues and all other property of any kind mortgaged, pledged or hypothecated under the Indenture to provide for the payment of or to secure the Bonds by Borrower or by anyone on its behalf and with its written consent at any time as and for additional security under the Indenture and a Supplemental Indenture in favor of the Trustee, which is authorized to receive all such property at any time and to hold and apply it subject to the terms of the Indenture and the Supplemental Indentures.

“Principal Project Contracts” means the Construction-Related Contracts, the MTA, the SPA, each Electronic Toll Collection Agreement, each Violation Processing Services Agreement, each Tolling Systems Contract, and each Standard Project Agreement.

“Principal Project Party” means any Person (other than the Borrower) that is a party to a Principal Project Contract.

“Project” means the widening of EB and WB 1-64 from 0.139 miles East of LaSalle Avenue to 0.379 miles East of Settlers Landing Road on I-64 in Hampton and the conversion of the three (3) existing EB and WB general purpose lanes in each direction into two (2) tolled express lanes and two (2) general purpose (GP) lanes in each direction, all pursuant to the terms of the SPA When completed, the tolled express lanes will become part of the Express Lanes Initial Project.].

“Project Budget” means, collectively, the budget for the Project in the aggregate amount of \$[433,049,517] attached to this Agreement as **Schedule I** showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time subject to the reporting requirements in Section 22(b) (*Monthly Construction Progress Report*).

“Project Fund” means any project fund created for the benefit of one or more series of Bonds pursuant to the Indenture and any Supplemental Indenture.

“Projected Substantial Completion Date” means [November 15, 2026], unless otherwise agreed by the TIFIA Lender in writing.

“Put Bonds” means any bond that by its terms may be tendered by and at the option of the holder thereof for payment prior to the stated maturity or redemption date thereof either (a) by the Borrower and by the Person and/or from the source specified in a Supplemental Indenture or (b) without recourse to the Borrower, by the Person and/or from the source specified in a Supplemental Indenture.

“Qualified Hedge” means, to the extent from time to time permitted by law, with respect to Permitted Debt any Hedging Transaction entered into with a Qualified Hedge Provider and meeting the requirements of Section 15(m) (*Hedging*).

“Qualified Hedge Provider” means any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating.

“Qualified Issuer” means (i) with respect to any Credit Facility issued by a bank or trust company, any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating and (ii) with respect to any Credit Facility issued by an insurance company or other financial institution, any insurance company or other financial institution that is authorized and qualified to do business by the state insurance commissioner of its jurisdiction of organization and of the State and that has an Acceptable Credit Rating.

“Rating Agency” means a rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in 15 U.S.C. § 78c(a)(62)).

“Rating Category” means one of the generic rating categories of a Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

“Rebate Amount” has the meaning provided in the Indenture.

“Rebate Fund” means any rebate fund created for the benefit of one or more series of Bonds pursuant to the Indenture and any Supplemental Indenture.

“Related Documents” means the Indenture Documents, the Toll Indenture Documents, the TIFIA Loan Documents, the Hedging Agreements and the Principal Project Contracts.

“Requisition” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“Reserve Accounts” means, collectively, each Debt Service Reserve Fund pursuant to the Indenture and the Supplemental Indenture pursuant to which such accounts are created.

“Revenue Fund” has the meaning provided in the Indenture.

“Revenue Sharing Account” means the special account of the Borrower created under the TIFIA Supplemental Indenture.

“Revenue Sharing Trigger Event” means, as of any date on which Subordinate Obligations issued to the TIFIA Lender are outstanding and both: (a) the Borrower or VDOT, on behalf of the Borrower, is not actively engaged in the development of capital project programs in the Hampton Roads Transportation Planning Organization’s most recently adopted long-range transportation plan, and (b) for so long as the Toll TIFIA Loan remains outstanding, the unencumbered amount on deposit in the General Fund (after taking into account any HRTF Transfers required to be made as of such date or within the next twelve (12) month period following such date) is greater than \$50,000,000, after making the deposits or transfers required by paragraphs FIRST through TENTH of Section 8.1(b) and paragraphs FIRST through FOURTH of Section 8.5(b) of the Indenture (in that order) have occurred (a copy of which such sections,

following their amendment pursuant to the TIFIA Supplemental Indenture, is attached hereto as **Exhibit O**).

“Revenue Stabilization Fund” means the Fund by that name created pursuant to Section 5.02 of the Toll Indenture.

“Revenue Stabilization Fund Requirement” means an amount equal to \$10,000,000, or such other amount, if any, as may be specified by a Supplemental Indenture, with respect to a series of Obligations issued under the Toll Indenture, with the prior written consent of the TIFIA Lender for so long as this Agreement remains in effect.

“Revised Financial Model” means an updated version of the Base Case Financial Model, in form and substance satisfactory to the TIFIA Lender, taking into account changes in projected revenues, expenditures or other modeling assumptions since the delivery of the Base Case Financial Model (or, as applicable, the most recently submitted Revised Financial Model) and including a change log describing such changes.

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or Controlled by any such Person or Persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the Federal Government, including those administered by OFAC or the U.S. Department of State.

“Secretary” means the United States Secretary of Transportation.

“Secured Obligations” means the Senior Obligations, the Intermediate Lien Obligations, the Subordinate Obligations (including the obligations of the Borrower under this Agreement, the HRTAC Project TIFIA Loan Agreement, the HRBT HRTF TIFIA Loan Agreement, the TIFIA Bond, the HRTAC Project TIFIA Bond and the HRBT HRTF TIFIA Bond), the Hedging Obligations, and the Hedging Termination Obligations.

“Secured Parties” means the Trustee, the TIFIA Lender, any other Bondholders, and the Hedging Banks.

“Semi-Annual Payment Date” means each January 1 and July 1.

“Senior Debt Service” means, with respect to the Senior Obligations, for any period, as of any date of calculation, an amount equal to the sum of all fees and interest and principal of Senior Obligations accruing and payable in respect of such period, as set forth in the most recent Revised Financial Model. In determining the principal amount of Senior Obligations due in such period (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization), payment shall be assumed to be made in accordance with any

amortization schedule established for such Senior Obligations, including any scheduled redemption of Permitted Debt on the basis of Accreted Value or Appreciated Value, as applicable, and for such purpose the redemption payment shall be deemed a principal payment.

In calculating Senior Debt Service for any future period (except as otherwise specifically provided herein):

(a) any Permitted Debt bearing interest at a Variable Interest Rate shall be deemed to bear interest at the Bank Lending Margin plus the fixed rate on the applicable Qualified Hedge (which shall reflect any premium or margin payable thereon);

(b) to the extent the requirements of Section 15(m) (*Hedging*) have been waived so that clause (a) of this definition no longer applies, any Variable Interest Rate Bonds for which the interest rate payable thereon has not yet been determined shall be deemed to bear interest at all times prior to the maturity date thereof at a rate which is the highest twelve (12) month rolling average of one (1) month [LIBOR] over the past ten (10) years preceding the date of calculation plus the Bank Lending Margin; provided that if such index is no longer published, the index to be used shall be that index which the TIFIA Lender, in consultation with the Borrower, determines most closely replicates it;

(c) any Put Bonds outstanding during such period which by their terms are not required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the stated maturity date thereof;

(d) any Put Bonds outstanding during such period which by their terms are required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the earliest to occur of (i) the stated maturity date thereof, (ii) the date provided in the applicable Supplemental Indenture, or (iii) if the Credit Facility securing such Put Bonds expires within six (6) months or less of the date of calculation and has not been renewed or replaced, the expiration date of such Credit Facility;

(e) the principal amount of any Put Bonds tendered for payment by the Borrower which are required to be paid by the Borrower which have not yet been purchased in lieu of such payment by the Borrower shall be deemed to mature on the date required to be paid pursuant to such tender;

(f) the principal and/or interest portion (whether by redemption or otherwise) of Capital Appreciation Bonds and Deferred Income Bonds shall be the Accreted Value and Appreciated Value thereof, respectively, due and payable in respect of such period;

(g) [the principal and interest payments (excluding capitalized interest) for all or any portion of any the 2023 Project BANs which is scheduled to be defeased with the proceeds of the TIFIA Loan shall be assumed to be the principal and interest portion of the TIFIA Debt Service, as defined herein and attached hereto as **Exhibit G**, with such amounts being included as Subordinate Debt Service and excluded from Senior Debt Service;] and

(h) the principal and interest payments schedule (excluding capitalized interest) for any Bond Anticipation Notes shall be assumed to be the principal and interest payments schedule of the corresponding series of Senior Obligations issued or authorized to be issued for the purpose of providing proceeds to refund or refinance such Bond Anticipation Notes; provided, however and notwithstanding the foregoing, any principal and interest payments which are scheduled to become due and payable prior to the issuance of such Senior Obligations shall be calculated based on the actual principal and interest payments schedule (excluding capitalized interest) for the Bond Anticipation Notes.

“Senior Debt Service Fund” means any debt service fund created for the benefit of one or more series of Senior Obligations pursuant to the Indenture and any Supplemental Indenture.

“Senior Debt Service Reserve Fund” means any debt service reserve fund created for the benefit of one or more series of Senior Obligations pursuant to the Indenture and any Supplemental Indenture.

“Senior Debt Service Reserve Requirement” means any debt service reserve requirement relating to the Senior Obligations established in accordance with the provisions of the Indenture and any Supplemental Indenture.

“Senior Obligations” means any Bonds heretofore or hereinafter issued, including the Series 2018A Bonds, under the Indenture and any Supplemental Indenture that are designated as being senior as to payment and security to the Intermediate Lien Obligations and the Subordinate Obligations.

“Series 2018A Bonds” means the Hampton Roads Transportation Accountability Commission Hampton Roads Transportation Fund Senior Lien Revenue Bonds, Series 2018A, dated February 14, 2018, originally issued in the aggregate principal amount of \$500,000,000.

“Servicer” means such entity or entities as the TIFIA Lender shall designate from time to time to perform, or assist the TIFIA Lender in performing, certain duties hereunder.

“SPA” means that certain Standard Project Agreement for Funding and Administration for the Segment 4C (Full Build Potential Scope) Project (UPC 119638 (Advanced Activity UPC 117841 linked)), dated as of December 16, 2021 (as previously amended and as further amended from time to time), between the Borrower and VDOT.

“Standard Project Agreement” means any standard project agreement or similar agreement (other than the SPA) related to the Project or any Additional Tolled Lanes (as defined in the Toll TIFIA Loan Agreement) or any Toll System Network Project (as defined in the Toll TIFIA Loan Agreement), in each case entered into between VDOT and the Borrower after the Effective Date, as amended from time to time.

“State” has the meaning provided in the preamble hereto.

“Subordinated Hedging Termination Obligations” means Hedging Termination Obligations under any Hedging Agreement other than those arising as a result of a Permitted Hedging Termination or as a result of a tax or illegality event or upon failure of the Borrower to pay any Hedging Obligations when due.

“Subordinate Debt Service” means, with respect to the Subordinate Obligations, for any period, as of any date of calculation, an amount equal to the sum of all fees and interest and principal of Subordinate Obligations accruing and payable in respect of such period, as set forth in the most recent Revised Financial Model. In determining the principal amount of Subordinate Obligations due in such period, payment shall be assumed to be made in accordance with any amortization schedule established for such Subordinate Obligations.

In calculating the Subordinate Debt Service for any future period (except as otherwise specifically provided herein):

(a) [the principal and interest payments (excluding capitalized interest) for all or any portion of any 2023 Project BANs that are scheduled to be defeased with the proceeds of the TIFIA Loan shall be assumed to be the principal and interest portion of the TIFIA Debt Service, as defined herein and attached hereto as **Exhibit G**, with such amounts being included as Subordinate Debt Service and excluded from Senior Debt Service;]

(b) [Reserved]

(c) the principal and interest payments schedule (excluding capitalized interest) for any Bond Anticipation Notes shall be assumed to be the principal and interest payments schedule of the corresponding series of Subordinate Obligations issued or authorized to be issued for the purpose of providing proceeds to refund or refinance such Bond Anticipation Notes; provided, however and notwithstanding the foregoing, any principal and interest payments which are scheduled to become due and payable prior to the issuance of the Subordinate Obligations shall be calculated based on the actual principal and interest payments schedule (excluding capitalized interest) for the Bond Anticipation Notes.

“Subordinate Debt Service Fund” means any debt service fund, including the TIFIA Debt Service Fund, created for the benefit of one or more series of Subordinate Obligations pursuant to the Indenture and any Supplemental Indenture.

“Subordinate Debt Service Reserve Fund” means any debt service reserve fund, including the TIFIA Debt Service Reserve Fund, created for the benefit of one or more series of Subordinate Obligations pursuant to the Indenture and any Supplemental Indenture.

“Subordinate Debt Service Reserve Requirement” means any debt service reserve requirement relating to the Subordinate Obligations, including the TIFIA Debt Service Reserve Required Balance, established in accordance with the provisions of the Indenture and any Supplemental Indenture.

“Subordinate Obligations” means any Bonds, including the TIFIA Bond, issued under the Indenture and designated as being subordinate as to payment and security to the Senior Obligations and the Intermediate Lien Obligations.

“Subsequent Qualified Hedge” has the meaning provided in Section 15(m)(iii) (Hedging).

“Substantial Completion” means the opening of the Project (inclusive of each segment thereof) to tolled vehicular traffic.

“Substantial Completion Date” means the date on which Substantial Completion occurs.

“Supplemental Indenture” means a Supplemental Indenture to the Indenture relating to a specific issuance of Bonds by the Borrower, including the TIFIA Supplemental Indenture.

“Tax Code” means the Internal Revenue Code of 1986, as amended from time to time.

“TIFIA” has the meaning provided in the recitals hereto.

“TIFIA Bond” means the Bond delivered by the Borrower in substantially the form of **Exhibit A**.

“TIFIA Debt Service” means with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding TIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the TIFIA Interest Rate (or, as applicable, the Default Rate), in each case (a) as set forth on **Exhibit G**, and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(c) (Payment of TIFIA Debt Service).

“TIFIA Debt Service Fund” has the meaning provided in the TIFIA Supplemental Indenture.

“TIFIA Debt Service Reserve Fund” has the meaning provided in the TIFIA Supplemental Indenture.

“TIFIA Debt Service Reserve Required Balance” means the lesser of (a) ten percent (10%) of the maximum stated principal amount of the HRTAC Project TIFIA Bond, the HRBT HRTF TIFIA Bond, and the TIFIA Bond, (b) one hundred percent (100%) of the HRTF TIFIA Maximum Annual Debt Service, and (c) one hundred and twenty-five percent (125%) of the average annual debt service on the HRTAC Project TIFIA Bond, the HRBT HRTF TIFIA Bond, and the TIFIA Bond on a combined basis through the Final Maturity Date. If there are any Additional TIFIA Loans outstanding at any time (other than the HRTAC Project TIFIA Loan and the HRBT HRTF TIFIA Loan), then the amounts set forth in clauses (a) through (c) will be calculated using the summation of the TIFIA Loan and all of the Additional TIFIA Loans as if there were one TIFIA loan.

“TIFIA Interest Rate” has the meaning provided in Section 6 (*Interest Rate*).

“TIFIA Lender” has the meaning provided in the preamble hereto.

“TIFIA Lender’s Authorized Representative” means the Executive Director and any other Person who shall be designated as such pursuant to Section 26 (*TIFIA Lender’s Authorized Representative*).

“TIFIA Loan” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth herein and as evidenced by the Borrower’s issuance of the TIFIA Bond, pursuant to the Act, in a principal amount not to exceed the Maximum TIFIA Loan Amount (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower.

“TIFIA Loan Documents” means this Agreement, the TIFIA Bond, the TIFIA Supplemental Indenture, the other Indenture Documents, the VDOT Direct Agreement, the HRTAC Project TIFIA Loan Documents and the HRBT HRTF TIFIA Loan Documents.

“TIFIA Supplemental Indenture” means that certain [] Supplemental Series Indenture of Trust, dated as of [] 1, 2023, between the Borrower and the Trustee in connection with the issuance of the TIFIA Bond.

“Toll Indenture” means that certain Master Indenture (Toll Roads System Revenue Bonds), dated as of September 1, 2021, between the Borrower and the Toll Indenture Trustee, as supplemented or amended from time to time in accordance with its terms.

“Toll Indenture Trustee” means U.S. Bank National Association, a national banking association.

“Toll Revenue Stabilization Fund” means the Revenue Stabilization Fund established and maintained under the Toll Indenture.

“Toll Roads System” means the Express Lanes Initial Project, any Express Lanes Future Project (each as defined in the Toll Indenture) that may be undertaken (which, when added to the Express Lanes Initial Project (as defined in the Indenture), becomes part of the Express Lanes Network), and any other Toll System Network Project, all as the same may exist from time to time, and including without limitation any new or improved highway, bridge or tunnel, or portion, phase or segment thereof, in which the Commission is empowered to impose and collect tolls.

“Toll System Network Project” means the Express Lanes Initial Project (other than the Project), any Express Lanes Future Project, and any addition, the acquisition, development, construction, reconstruction, improvement, betterment, extension or equipping of or relating to a tolled road or facility, or any additional capital project extending, improving or otherwise related to the Toll Roads System that the Borrower determines or proposes to finance pursuant to the Indenture.

“Toll TIFIA Loan” means the TIFIA loan under the Toll TIFIA Loan Agreement.

“Toll TIFIA Loan Agreement” means that certain TIFIA Loan Agreement (Toll Revenues), dated as of September 21, 2021 between the TIFIA Lender and the Borrower, pursuant to which the TIFIA Lender will make a loan repayable from the Borrower’s toll revenues.

“Tolling Systems Contract” means any contract entered into by the Borrower or by VDOT for the provision of Tolling Infrastructure and System or Tolling O&M Duties. As of the Effective Date, the Tolling Systems Contracts consist of:

(a) Standard Contract, I-64 Express Lane Expansion (Contract No. 49259), dated as of June 17, 2021, between Conduent State and Local Solutions, Inc. and VDOT.

(b) Standard Contract, VDOT I-64 Express Lanes Toll System and Services (Contract No. 45400), dated as of March 21, 2017, between TransCore, LP and VDOT.

“Total Debt Service Coverage Ratio” means, for any Calculation Period, the ratio of projected Pledged Revenues for such Calculation Period to the sum of (a) Senior Debt Service for such Calculation Period, (b) Intermediate Lien Debt Service for such Calculation Period, and (c) Subordinate Debt Service for such Calculation Period.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower or VDOT in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and costs of insurance; (b) the amount, if any, required by the Indenture Documents or the TIFIA Loan Documents to be paid into any fund or account upon the incurrence of the TIFIA Loan, any other TIFIA loan, or any Additional Obligations related to the Project; and (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect to any indebtedness of the Borrower or any Credit Facility maintained by the Borrower, in each case in connection with the Project (other than the TIFIA Loan, the HRTAC Project TIFIA Loan, the HRBT HRTF TIFIA Loan, or any additional TIFIA loan).

“Trust Estate” means the Pledged Revenues and Debt Service Reserve Fund plus, with respect to each series (and to such series only) of Bonds, the money and investments held in the applicable (a) Project Fund (if any) and (b) Debt Service Fund.

“Trustee” means Wilmington Trust, National Association.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not

constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“Uniform Commercial Code” or **“UCC”** means the Uniform Commercial Code, as in effect from time to time in the State.

“USDOT” means the United States Department of Transportation.

“Valuation Date” means (a) with respect to any Capital Appreciation Bonds, the date or dates set forth in the Supplemental Indenture authorizing such Capital Appreciation Bonds on which specific Accreted Values are assigned to the Capital Appreciation Bonds and (b) with respect to any Deferred Income Bonds, the date or dates on or prior to the Interest Commencement Date set forth in the Supplemental Indenture authorizing such Deferred Income Bonds on which specific Appreciated Values are assigned to the Deferred Income Bonds.

“Variable Interest Rate” means a variable interest rate to be borne by any Permitted Debt. The method of computing such variable interest rate shall be specified in the Supplemental Indenture pursuant to which such Permitted Debt is incurred. Such Supplemental Indenture shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect, or (b) the time or times upon which any change in such variable interest rate shall become effective.

“Variable Interest Rate Bonds” means Permitted Debt which bears a Variable Interest Rate but does not include any Permitted Debt for which the interest rate has been fixed during the remainder of the term thereof to maturity; provided, however, that Permitted Debt bearing a Variable Interest Rate shall not be deemed Variable Interest Rate Bonds if the Borrower has entered into a Qualified Hedge with respect to such Permitted Debt during the period for which such Qualified Hedge is in effect; provided, further, that Permitted Debt bearing a fixed rate of interest shall be deemed Variable Interest Rate Bonds to the extent that the Borrower has entered into a Qualified Hedge pursuant to which the Borrower is obligated to pay a floating rate of interest and receives a fixed rate of interest and shall be deemed to bear interest at the lesser of the rate determined pursuant to clause (a) of the definition of the term Senior Debt Service or Intermediate Lien Debt Service (as applicable) or the maximum interest rate, if any, payable pursuant to such Qualified Hedge.

“Variable Interest Rate Obligations” means any Senior Obligations or Intermediate Lien Obligations under the Indenture that accrue interest at a Variable Interest Rate.

“VDOT” means the Virginia Department of Transportation.

“VDOT Direct Agreement” means that certain Direct Agreement, dated as of the date hereof, among the TIFIA Lender, the Borrower, and VDOT.

“Violation Processing Services Agreement” means any Violation Processing Services Agreement entered into between the Borrower and VDOT.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof”, and other words of similar import refer to this Agreement as a whole.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 36 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

Section 3. TIFIA Loan Amount. The principal amount of the TIFIA Loan shall not exceed [\$142,905,000]. TIFIA Loan proceeds shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 12(b) (*Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions.

(a) TIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project [and may be used to pay or redeem 2023 Project BANs]. The Borrower acknowledges and agrees that any costs incurred in connection with the Project prior to receipt of all necessary authorizations from the USDOT in respect of such costs (which may include approvals of prior-incurred costs) are incurred solely at the Borrower’s risk and expense, will not constitute Eligible Project Costs, and no TIFIA Loan proceeds will be disbursed in respect thereof, unless and until such authorizations have been received. If the Borrower intends to utilize the TIFIA Loan proceeds to make progress payments for the Project construction work performed under any Principal Project Contract, the Borrower shall demonstrate to the satisfaction of the TIFIA Lender that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One To Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 (*Disbursement*

Conditions) and the conditions set forth in Section 12(b) (*Conditions Precedent to All Disbursements*); provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of each Requisition to the TIFIA Lender and the Servicer (if any) and the FHWA Division Office on or before the first (1st) Business Day of each month for which a disbursement is requested. Subject to Section 4(g), if the TIFIA Lender does not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express denial of a Requisition by the TIFIA Lender shall be provided substantially in the form attached as **Appendix Two to Exhibit D** (*Requisition Procedures*). In no event shall disbursements be made more than once each month.

(c) The Borrower may amend the Anticipated TIFIA Loan Disbursement Schedule by submitting a revised version thereof to the TIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions.

(d) [The Borrower anticipates that it will draw down all of the proceeds of the TIFIA Loan to reimburse the Borrower for Eligible Project Costs paid by or on behalf of the Borrower prior to such disbursement of TIFIA Loan proceeds[, including for the purpose of paying or redeeming the 2023 Project BANs. The Borrower shall deliver concurrently to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any), copies of all invoices and other records evidencing Eligible Project Costs (the “**Eligible Project Costs Documentation**”), irrespective of whether such costs were paid with the proceeds of the 2023 Project BANs; provided that the Borrower must deliver to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any) all Eligible Project Costs Documentation associated with any Eligible Project Costs included in a Requisition by the applicable following date: (i) with respect to Eligible Project Costs incurred by or on behalf of the Borrower prior to, and up to one (1) month after, the Effective Date, by the last Business Day of the second (2nd) month immediately following the Effective Date and (ii) with respect to Eligible Project Costs incurred by or on behalf of the Borrower after the one-month period referred to in clause (i) above, by the last Business Day of each month immediately following such second (2nd) month referred to in clause (i) above.]

(e) [Each time the Borrower delivers Eligible Project Costs Documentation to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any), the Borrower shall also deliver to such entities a certificate, duly executed by the Borrower’s Authorized Representative, certifying as to the following:

(i) the amount of Eligible Project Costs financed from the proceeds of 2023 Project BANs for the period of time for which such Eligible Project Costs Documentation is being provided;

(ii) that such proceeds of any 2023 Project BANs were expended solely in connection with the payment or reimbursement of Eligible Project Costs;

(iii) the amount of Eligible Project Costs paid by or on behalf of the Borrower from sources other than 2023 Project BANs and identifying such sources;

(iv) the amount of Eligible Project Costs included in such Eligible Project Costs Documentation for which VDOT has received or intends to receive Federal assistance and that none of the Eligible Project Costs submitted to the TIFIA Lender for which the Borrower is seeking a disbursement of TIFIA Loan proceeds include amounts for which VDOT has received or intends to receive Federal assistance; and

(v) that there does not currently exist any Event of Default or an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default (a “prospective Event of Default”) or, if there does currently exist an Event of Default or prospective Event of Default, the certificate shall specify all the actions that the Borrower is taking to remedy such Event of Default or prospective Event of Default.]

(f) [The Eligible Project Costs Documentation submitted pursuant to Section 4(d)(i) and the certificate delivered pursuant to Section 4(e) must be satisfactory to the TIFIA Lender. The Eligible Project Costs Documentation must provide sufficient detail to enable the TIFIA Lender to verify that such costs are Eligible Project Costs paid by or on behalf of the Borrower. The Eligible Project Costs Documentation and the certificate must provide sufficient detail to enable the TIFIA Lender to verify that proceeds of the 2023 Project BANs were expended for Eligible Project Costs and to audit Eligible Project Costs paid from sources other than the 2023 Project BANs, including Eligible Project Costs which VDOT has received or anticipates receiving Federal assistance. The certificate and the Eligible Project Costs Documentation are intended to document Eligible Project Costs in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, only those 2023 Project BANs in respect of which the proceeds were used to pay such documented Eligible Project Costs. The TIFIA Lender shall review each such certificate for compliance with TIFIA disbursement requirements. Within fourteen (14) Business Days following the receipt of the Eligible Project Costs Documentation and the accompanying certificate, the TIFIA Lender shall deliver a notice to the Borrower confirming the Eligible Project Costs set forth in the certificate that have been approved, or notifying the Borrower as to which Eligible Project Costs have not been approved, and confirming the cumulative amount of Eligible Project Costs approved as of the notice date. Such approved amounts of Eligible Project Costs will be disbursed at such time as the Borrower submits a Requisition in respect of such approved amounts in accordance with clauses (a) and (b) above. In no event shall the Borrower submit a Requisition that seeks reimbursement of any Eligible Project Costs for which the related Eligible Project Costs Documentation and the certificate required pursuant to Section 4(e) (i) have not been delivered to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any) or (ii) were not delivered to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any) at least one (1) month prior to the date such Requisition is submitted.]

(g) Notwithstanding anything to the contrary set forth in this Agreement (including this Section 4, Section 12 (*Conditions Precedent*) or **Exhibit D** (*Requisition Procedures*)), in no event shall the TIFIA Lender have any obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower if the TIFIA Lender’s ability to make such disbursement is impaired as a result of a partial or total shutdown of the operations of any federal

department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

Section 5. Term. The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

Section 6. Interest Rate. The interest rate with respect to Outstanding TIFIA Loan Balance (the “**TIFIA Interest Rate**”) shall be [] percent ([]%) per annum. Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed; provided, however, in the event of a Payment Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate (and including) its due date to (but excluding) the date of actual payment. Upon the occurrence of any other Event of Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate from (and including) the date such Event of Default first occurred to (but excluding) the earlier to occur of (a) the date such Event of Default has been waived by the TIFIA Lender and (b) the date the Outstanding TIFIA Loan Balance and any interest accrued thereon (at the Default Rate) but unpaid has been irrevocably paid in full in cash.

Section 7. Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule.

(a) The Outstanding TIFIA Loan Balance will be (i) increased on each occasion on which the TIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (ii) increased on each occasion on which interest on the TIFIA Loan is capitalized pursuant to the provisions of Section 9(b) (*Capitalized Interest Period*), by the amount of interest so capitalized; and (iii) decreased upon each payment or prepayment of the Outstanding TIFIA Loan Balance, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time to time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(b) The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time to time, in accordance with the principles set forth in Section 10(c) (*General Prepayment Instructions*) and **Exhibit M**, to reflect (i) any change to the Outstanding TIFIA Loan Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (iii) such other information as the TIFIA Lender may determine is necessary for administering the TIFIA Loan and this Agreement. Any calculations described above shall be rounded up or down

to the nearest whole cent. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. The TIFIA Lender shall provide the Borrower with a copy of **Exhibit G** as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents.

Section 8. Security and Priority; Flow of Funds.

(a) As security for the TIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee for the benefit of the TIFIA Lender, Liens on the Trust Estate in accordance with the provisions of the Indenture Documents. The TIFIA Bond shall be issued as a Subordinate Obligation, secured by the Liens on the Trust Estate, and shall be subordinate to the Lien on the Trust Estate pledged to secure the Senior Obligations and the Intermediate Lien Obligations, and shall be *pari passu* to the Lien on the Trust Estate pledged to secure the Subordinate Obligations.

(b) Except to the extent otherwise provided in clause (a) of this Section 8 (*Security and Priority; Flow of Funds*), the Trust Estate will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the Indenture Documents, and all organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken.

(c) The Borrower shall not use Pledged Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 (*Security and Priority; Flow of Funds*) and the Indenture Documents and shall not apply any portion of the Pledged Revenues in contravention of this Agreement or the Indenture Documents.

(d) The Indenture provides that all Pledged Revenues shall be deposited in the Revenue Fund and applied in the order of priority identified therein, as more fully described, and in accordance with the requirements specified in Section 8.1(b) of the Indenture (a copy of which, as of the Effective Date, is attached hereto as **Exhibit O**) (all capitalized terms used in **Exhibit O** have the meanings given to them in the Indenture).

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan by making payments in accordance with the provisions of this Agreement and the Indenture Documents on (i) each Semi-Annual Payment Date, beginning on the Debt Service Payment Commencement Date, with respect to interest on the TIFIA Loan, (ii) on each July 1, commencing on July 1, 2028, with respect to the principal of the TIFIA Loan, and (iii) on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any date on which payment is due by reason of the mandatory redemption, prepayment, acceleration of the maturity of the TIFIA Loan or otherwise); provided, that if any such date is not a Business Day, payment shall be made on the next Business Day following such

date. Any payment of the TIFIA Bond shall be treated as a payment of the TIFIA Loan and any prepayment of the TIFIA Loan shall be treated as redemption of the TIFIA Bond.

(b) Capitalized Interest Period. No payment of the principal of or interest on the TIFIA Loan is required to be made during the Capitalized Interest Period. On each Semi-Annual Payment Date occurring during the Capitalized Interest Period (and on the Semi-Annual Payment Date immediately following the end of the Capitalized Interest Period), interest accrued on the TIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding TIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the TIFIA Lender shall give written notice to the Borrower stating the Outstanding TIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other TIFIA Loan Documents.

(c) Payment of TIFIA Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall pay or cause the Trustee to pay TIFIA Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date on **Exhibit G**, as the same may be revised as provided in Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*), which payments shall be made in accordance with Section 9(d) (*Manner of Payment*).

(d) Manner of Payment. Payments under this Agreement and the TIFIA Bond shall be made by wire transfer on or before each Semi-Annual Payment Date in immediately available funds in accordance with payment instructions provided by the TIFIA Lender pursuant to Section 36 (*Notices; Payment Instructions*), as modified in writing from time to time by the TIFIA Lender. The Borrower may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the TIFIA Debt Service Fund.

(e) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated pursuant to the provisions of Section 20 (*Events of Default and Remedies*), but only to the extent acceleration is permitted under the Indenture).

(f) TIFIA Bond. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall issue and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Bond substantially in the form of **Exhibit A**, having a maximum principal amount (excluding capitalized interest) of [\$142,905,000] (subject to increase or decrease as herein provided) and bearing interest at the rate set forth in Section 6 (*Interest Rate*).

Section 10. Prepayment.

(a) Mandatory Prepayments. The Borrower shall prepay the TIFIA Loan in whole or in part, without penalty or premium:

(i) Following the occurrence of a Revenue Sharing Trigger Event, on each Semi-Annual Payment Date occurring while the Revenue Sharing Trigger Event

remains in effect, any amounts on deposit in the Revenue Sharing Account. Prepayment of the TIFIA Loan will be made, on a pro rata basis with the HRTAC Project TIFIA Loan, the HRBT HRTF TIFIA Loan, and any other Additional TIFIA Loans then outstanding, in each case, based on the then outstanding cumulative amount of the TIFIA Loan, the HRTAC Project TIFIA Loan, the HRBT HRTF TIFIA Loan, and such Additional TIFIA Loans.

(ii) Upon any voluntary prepayment of any Bonds, other than any voluntary prepayment of any Bonds made with the proceeds of Additional Obligations issued in accordance with the requirements of subsection (a) in the definition thereof for the purpose of refinancing such Bonds, pro rata with such voluntary prepayment.

The Borrower shall provide written notice to the TIFIA Lender at least two (2) Business Days prior to the date on which it makes any mandatory prepayment; provided that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Borrower's obligation to make any such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred. Each prepayment pursuant to this Section 10(a) (Mandatory Prepayments) shall be effected pursuant to Section [4.2] of the TIFIA Supplemental Indenture (as applicable) and accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment.

(b) Optional Prepayments. The Borrower may prepay the TIFIA Loan by causing the Trustee to redeem the TIFIA Bond in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in a minimum principal amount of \$1,000,000), at any time or from time to time, without penalty or premium. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the TIFIA Lender, which notice shall also specify the amount of unpaid interest accrued to the date of such prepayment on the amount of principal to be prepaid that the Borrower intends to pay concurrently with such prepayment, if any. In the case of any optional prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the TIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the TIFIA Lender. Anything in this Section 10(b) (Optional Prepayments) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) General Prepayment Instructions. Upon the TIFIA Lender's receipt of confirmation that payment in full of the entire Outstanding TIFIA Loan Balance and any unpaid interest and fees with respect thereto has occurred as a result of a mandatory or optional prepayment, the TIFIA Lender shall surrender the TIFIA Bond to the Borrower or its representative at the principal office of the TIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of the TIFIA Loan, such partial prepayments shall be applied ratably to reduce all future payments due on the TIFIA Loan. The TIFIA Lender may make a notation on **Exhibit G** indicating the amount of principal of and interest on such TIFIA Bond then

being prepaid. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. All such partial prepayments of principal shall be applied on a pro rata basis to reduce future payments due on the TIFIA Bond. If said monies shall not have been so paid on the prepayment date, such principal amount of such TIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6 (Interest Rate).

Section 11. Compliance with Laws. The Borrower shall, and shall require VDOT, which shall in turn require the Construction Contractors at all tiers for the Project, to comply in all material respects with all applicable laws, rules, regulations, executive and administrative decrees and orders, and orders and judgments of any court or arbitral panel, including federal and state laws, rules, regulations and executive orders. In the SPA and each Standard Project Agreement, VDOT has represented to the Borrower that VDOT will ensure that all work performed relating to the Project, which is evidenced in the Principal Project Contract between VDOT and the applicable Construction Contractor, will be completed in accordance with any and all applicable federal, state, and local laws and regulations. The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The FHWA Division Office has oversight responsibility for the Project, including ensuring compliance in all material respects with all applicable provisions of federal law.

Section 12. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender each of this Agreement, the TIFIA Bond, and the TIFIA Supplemental Indenture, each in form and substance satisfactory to the TIFIA Lender, and VDOT shall have executed and delivered the VDOT Direct Agreement and each of the deliverables required under the VDOT Direct Agreement, where applicable, in substantially the form attached thereto.

(ii) The Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this (ii) (*Conditions Precedent to Effectiveness*), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those

opinions set forth on **Exhibit H-1**) and bond counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on

(iv) **Exhibit H-2).** The TIFIA Lender shall also have received customary legal opinions, each in form and substance satisfactory to the TIFIA Lender, from counsel to VDOT (including those opinions set forth in Exhibit A to the VDOT Direct Agreement).

(v) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Federal Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** with respect to the Borrower and its principals (as defined in 2 CFR § 180.995).

(vi) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K** (A) as to the satisfaction of certain conditions precedent set forth in this Section 12(a) (*Conditions Precedent to Effectiveness*) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(vii) The Borrower shall have complied with the verification requirements set forth in 2 CFR §§ 180.300 and 180.320 and complied with its obligations under 2 CFR § 180.330 in connection with the Principal Project Contracts, and shall have provided evidence thereof satisfactory to the TIFIA Lender.

(viii) The Borrower shall have certified to the TIFIA Lender in the certificate from the Borrower's Authorized Representative that the Borrower and VDOT have complied with their respective obligations under each Principal Project Contract, including the following:

(1) VDOT has complied with (A) the disclosure requirements set forth in 2 CFR § 180.355, (B) the verification requirements set forth in 2 CFR §§ 180.300 and 180.320, and (C) its obligations under 2 CFR § 180.330 with respect to the Construction Contracts;

(2) All Governmental Approvals necessary to commence construction of the Project have been obtained and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation);

(3) With respect to the Project, the Borrower and VDOT have each complied with NEPA and have delivered a copy of the NEPA Determination to the TIFIA Lender;

(4) The Borrower and VDOT, respectively, have each complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);

(5) VDOT and each applicable Principal Project Party, as and if applicable, have obtained insurance with respect to the Project, which meets the requirements of Section 15(e) (*Compliance with Principal Project Contracts*); and

(6) Each performance security instrument delivered to or by VDOT pursuant to any Principal Project Contract as of the Effective Date shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

To assist with the Borrower's compliance under this Section 12(a)(vii), but without limiting the applicability or effect of Section 19(a)(iv) (*Misrepresentation Default*), the Borrower may rely on a certificate of an authorized representative of VDOT, as well as VDOT's representations, warranties and certificates in the VDOT Direct Agreement, as to VDOT's compliance with the applicable certifications required herein.

(ix) The Borrower shall have provided to the TIFIA Lender satisfactory evidence that the Project has been included in (A) the metropolitan transportation improvement program adopted by the Hampton Roads Transportation Planning Organization, (B) the State transportation plan, and (C) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135, and 23 U.S.C. § 602(a)(3), as applicable; and the financial plan for each such program or plan shall reflect the costs of, and the sources of funding for, the Project.

(x) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, no more than forty-five (45), but no less than fourteen (14), days prior to the Effective Date, of the assignment by at least two (2) Rating Agencies of public ratings of not less than 'A-' or 'A3' to the TIFIA Loan and to the Existing Indebtedness, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(xi) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that as of the Effective Date the aggregate of all committed sources of funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been fully and completely committed and allocated to the Borrower by the providers thereof, or, in the case of HRTF Revenues, are reasonably anticipated to be available, and that such funds will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule and in any event on or prior to the Projected Substantial Completion Date.

(xii) The Borrower shall have provided to the TIFIA Lender certified, complete, and fully executed copies of each Principal Project Contract, together with any amendments, waivers or modifications thereto and any related performance security instruments, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

(xiii) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected Pledged Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrate a Total Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 2.20, and (C) otherwise be in form and substance acceptable to the TIFIA Lender.

(xiv) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender that the Borrower is authorized, pursuant to Section 33.2-1920, as amended, Code of Virginia of 1950, to pledge, assign, and grant the Liens on the Trust Estate purported to be pledged, assigned, and granted pursuant to the Indenture Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (B) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Trustee's Lien on the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Indenture Documents and required by applicable law, and (C) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing.

(xv) The Borrower shall have paid in full all invoices delivered by the TIFIA Lender (or by advisors to the TIFIA Lender that have direct billing arrangements with the Borrower) to the Borrower as of the Effective Date for the documented fees and expenses of the TIFIA Lender's counsel and advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xvi) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xvii) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Unique Entity Identifier number, and (C) registered with, and obtained confirmation as of the Effective Date of active registration status with no active exclusions listed in such registration from, the federal System for Award Management (www.SAM.gov).

(xviii) The Borrower shall have provided to the TIFIA Lender evidence that the Borrower is duly created and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State or the state of its formation, to the extent applicable), which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate, (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions

have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents.

(xix) The Borrower shall have provided the TIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the TIFIA Lender and in sufficient time prior to the Effective Date to permit the TIFIA Lender and the FHWA Division Office to review such costs.

(xx) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxi) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (B) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(xxii) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(xxiii) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as **Exhibit N** in accordance with 49 CFR §20.100(b).

(xxiv) [The Borrower shall have delivered to the TIFIA Lender the forms of the 2023 Project BANs Supplemental Indenture, the 2023 Project BANs Bond, and any other documents required to issue the 2023 Project BANs on the 2023 Project BANs Closing Date, each in the form and substance satisfactory to the TIFIA Lender.]

(xxv) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other Project funding requirements have been met (including evidence of other funding sources or funding commitments and evidence of the closing of the Existing Indebtedness).

(b) Conditions Precedent to All Disbursements. Notwithstanding anything in this Agreement to the contrary, the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) With respect to the initial disbursement of the TIFIA Loan, each of the conditions set forth in Section 12(c) shall have been satisfied.

(ii) With respect to any disbursement occurring sixty (60) days or more after the Effective Date, the Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 21(a) (*Financial Plan*), which Financial Plan (or update thereto) reflects that amortization of the principal amount of any outstanding Bonds does not commence before the Debt Service Payment Commencement Date.

(iii) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Indenture Documents entered into after the Effective Date.

(iv) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided certified copies of all Principal Project Contracts and all Additional Project Contracts requested by the TIFIA Lender pursuant to Section 15(b) (*Copies of Documents*) (including, in each case, any amendment, modification or supplement thereto and related performance security instrument) entered into after the Effective Date.

(v) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that VDOT has complied in all material respects with its obligations under each Principal Project Contract and Additional Project Contract to which VDOT is a party and shall provide, or shall use commercially reasonable efforts to cause VDOT to provide, upon the TIFIA Lender's request evidence thereof satisfactory to the TIFIA Lender, including the following:

(1) All Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect;

(2) Each Construction Contractor has maintained surety bonds and insurance coverage and amounts as required by the applicable Principal Project Contract; and

(3) Each of the insurance policies obtained by any applicable Principal Project Party in satisfaction of the conditions in (a)(viii)(6) (*Conditions Precedent to Effectiveness*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(vi) At the time of, and immediately after giving effect to, any disbursement of TIFIA Loan proceeds then currently requested, (A) no Default or Event of Default hereunder and no event of default (howsoever described or designated) under any other Related Document (other than an event of default of a Principal Project Party) shall have occurred and be continuing, (B) no material event of default (howsoever described or designated) of any Principal Project Party under any Principal Project Contract shall have occurred and be continuing, and (C) no event or condition that, with the giving of notice, the passage of time, or both, would constitute an event of default (howsoever described or designated) of the Borrower under any other Related Document, in each case, shall have occurred and be continuing.

(vii) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct, and complete as of each date on which any disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(viii) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since the date the Borrower submitted the Application to the TIFIA Lender.

(ix) The Borrower shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*), and such Requisition has not been expressly denied by the TIFIA Lender.

(x) The Borrower shall have paid in full all invoices received from the TIFIA Lender (or from advisors to the TIFIA Lender that have direct billing arrangements with the Borrower) as of the date of disbursement of the TIFIA Loan, for the documented fees and expenses of the TIFIA Lender's counsel and advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xi) To the extent not previously delivered to the TIFIA Lender, the Borrower shall request and upon receipt provide all certified, completed and fully executed copies of each performance security instrument delivered to or by VDOT pursuant to any Principal Project Contract as of the date of disbursement of the TIFIA Loan, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xii) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the date of disbursement of the TIFIA Loan, as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(c) [Conditions Precedent to 2023 Project BANs Closing Date]. Notwithstanding anything in this Agreement to the contrary, this Agreement shall terminate and the TIFIA Lender shall have no obligation hereunder in the event that the 2023 Project BANs Closing Date does not occur on or before [____], 2023. The Borrower's obligations under Section 17 (*Indemnification*) and Section 28(c) (*Fees and Expenses*) shall survive any such termination of this Agreement. In no event shall the 2023 Project BANs Closing Date be deemed to have occurred until each of the following conditions has been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have provided evidence satisfactory to the TIFIA Lender that (A) the 2023 Project BANs have been approved by the Borrower and issued in accordance with the Indenture and the 2023 Project BANs Supplemental Indenture, (B) each of the conditions contained in the Indenture and the 2023 Project BANs Supplemental Indenture to the closing of the transactions contemplated thereby has been satisfied or waived with the consent of the TIFIA Lender, and (C) the 2023 Project BANs proceeds have been delivered to the Borrower.

(ii) Except for amendments effectuated pursuant to the terms of the 2023 Project BANs Supplemental Indenture, the Indenture shall remain in full force and effect, without any amendments thereto.

(iii) The 2023 Project BANs Supplemental Indenture and the 2023 Project BANs Bond shall have been executed by each of the parties thereto and shall be in full force and effect, and certified, fully executed copies thereof shall have been delivered to the TIFIA Lender, in the form previously provided under Section 12(a) by the Borrower to the TIFIA Lender, with only such changes as are acceptable to the TIFIA Lender.

(iv) The Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of any other amendment, waiver or modification to any Principal Project Contract (to the extent not delivered on the Effective Date), each of which shall be in form and substance satisfactory to the TIFIA Lender and in full force and effect.

(v) Counsel to the Borrower and the bond counsel to the Borrower shall have delivered to the TIFIA Lender legal opinions, in form and substance reasonably satisfactory to the TIFIA Lender, in respect of each of the Indenture Documents executed in connection with the 2023 Project BANs and not previously delivered to the TIFIA Lender or not previously covered in an opinion of legal counsel delivered to the TIFIA Lender on behalf of such entity (in each case to the extent such entity is a party thereto).

(vi) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct and complete as of the 2023 Project BANs Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct and complete as of such earlier date).

(vii) The Borrower shall have paid, or shall pay concurrently with the 2023 Project BANs Closing Date, in full all invoices delivered by the TIFIA Lender (or by

advisors to the TIFIA Lender that have direct billing arrangements with the Borrower) as of the 2023 Project BANs Closing Date for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(viii) None of the ratings provided in satisfaction of the condition precedent specified in Section 12(a)(ix) (*Conditions Precedent to Effectiveness*) shall have been reduced, withdrawn or suspended as of the 2023 Project BANs Closing Date.

(ix) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K-2** as to the satisfaction of certain conditions precedent set forth in this Section 12(c) as required by the TIFIA Lender.

(x) The Borrower shall have provided to the TIFIA Lender any material documents required to be delivered to the Borrower pursuant to the 2023 Project BANs Supplemental Indenture in connection with issuance of the 2023 Project BANs, including the certificates and legal opinions received by the Borrower under the 2023 Project BANs Supplemental Indenture in connection with issuance of the 2023 Project BANs.]

Section 13. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 13(b) (*Officer's Authorization*) and Section 13(k) (*Credit Ratings*), as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a body politic and a political subdivision duly created and validly existing under the laws of the State, has full legal right, power and authority to enter into the Related Documents then in existence, to execute and deliver the TIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in the Related

Documents and the fulfillment of or compliance with the terms and conditions of the Related Documents will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, other than the Liens granted pursuant to the TIFIA Loan Documents.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Project or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the Project, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive Pledged Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or, as applicable, the most recent Revised Financial Model). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture Documents and Section 33.2-1920, as amended, Code of Virginia of 1950, establish, in favor of the Trustee for the benefit of the TIFIA Lender, the valid and binding Liens on the Trust Estate that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are not subordinate

or junior to any other Liens in respect of the Trust Estate except for the Liens associated with Senior Obligations and Intermediate Lien Obligations, and not *pari passu* with any obligations other than the Subordinate Obligations. The Borrower has duly and lawfully taken all actions required under this Agreement, the Indenture Documents, and applicable laws for the pledge of the Trust Estate pursuant to and in accordance with the Indenture Documents. The Borrower is not in breach of any covenants set forth in Section 15(a) (*Securing Liens*) or in the Indenture Documents with respect to the matters described in such section or documents. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required by applicable law and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable Lien on the Trust Estate in favor of the Trustee (for the benefit of the Secured Parties) to the extent contemplated by the Indenture Documents, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Trust Estate granted pursuant to the Indenture Documents is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 CFR § 180.320 and confirms that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 CFR § 180.995) is debarred, suspended or voluntarily excluded from participation in Federal Government contracts, procurement or non-procurement matters or delinquent on a Federal Government debt as more fully set forth in the certificate delivered pursuant to Section 12(a)(v) (*Conditions Precedent to Effectiveness*). Further, the Borrower has fully complied with 2 CFR Part 180, including Subpart C, in particular §§ 180.300 and 180.330, and with 2 CFR § 1200.332, with respect to VDOT in connection with the Principal Project Contracts. The Borrower is not aware of any non-compliance by any of its contractors or subcontractors on the Project with the applicable requirements of 2 CFR Part 180.

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(j) Transportation Improvement Program. The Project has been included in (i) the metropolitan transportation improvement program adopted by the Hampton Roads Transportation Planning Organization, (ii) the State transportation plan, and (iii) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135 and 23 U.S.C. § 602(a)(3), as applicable. The financial plan for each such program or plan reflects the costs of, and the sources of funding for, the Project.

(k) Credit Ratings. The TIFIA Bond and the Existing Indebtedness outstanding as of the Effective Date have received a public credit rating of not less than 'A-' or 'A3' (or such equivalents for short-term obligations) from at least two (2) Rating Agencies, and written evidence

of each such public rating has been provided to the TIFIA Lender prior to the Effective Date, and neither public rating has been reduced, withdrawn or suspended as of the Effective Date.

(l) No Defaults. No Default or Event of Default, and no event of default (howsoever described or designated) of the Borrower under any Related Document has occurred and is continuing.

(m) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(n) Principal Project Contracts. Each Principal Project Contract in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each Principal Project Contract have been satisfied. The Borrower has delivered to the TIFIA Lender a fully executed, complete, and correct copy of each such Principal Project Contract and each Additional Project Contract required to be delivered to, or requested by, the TIFIA Lender pursuant to Section 15(b) (Copies of Documents) (including, in each case, all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related Credit Facilities or side letters. No event has occurred that gives the Borrower (as applicable) or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any Principal Project Contract. The Borrower is not in breach of, or in default under, any Principal Project Contract (as applicable), and, to the knowledge of the Borrower, no Principal Project Party is in breach of, or in default under, any material term of any Principal Project Contract (as applicable).

(o) Information. The information furnished by the Borrower to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model, any Revised Financial Model, and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made.

(p) OFAC; Anti-Corruption Laws.

(i) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is a Sanctioned Person.

(ii) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws; or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal; or

(iii) There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower or, to the knowledge of the Borrower, any Principal Project Party, with respect to any possible or alleged violations of any applicable Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(iv) No use of proceeds of the TIFIA Loan or other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(q) Trust Estate. TIFIA Debt Service and all other payment obligations hereunder are limited obligations of the Borrower, secured solely by the Trust Estate pledged under the Indenture, which is funded solely from the HRTAC Revenues paid by the State to the Borrower pursuant to the HRTAC Act. The obligation of the Borrower to make TIFIA Debt Service payments and to pay other amounts due hereunder does not constitute an indebtedness of the State or any political subdivision thereof other than the Borrower within the meaning or application of any constitutional provision or limitation. The obligation of the Borrower to make TIFIA Debt Service payments does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The Borrower has no taxing power.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the Project in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 13(s) (*Environmental Matters*)), including those set forth on **Exhibit E**, to the extent applicable. To the Borrower's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E**, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by the Borrower (as applicable) or, to the Borrower's knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. To the Borrower's knowledge, each Principal Project Party is in compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice "Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects," 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> ("**Environmental Laws**"). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as

applicable, will be) in full force and effect. The Borrower is not aware of any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that a Principal Project Party is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by a Principal Project Party with any such Environmental Law or Governmental Approval. The Borrower has provided to the TIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Project's compliance with (A) Environmental Laws, and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(t) Sufficient Rights and Utilities. VDOT, as the State entity responsible for building, maintaining, and operating the interstate, primary, and secondary state highway systems in the State, possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Project, in each case as is necessary and sufficient for the construction, operation, maintenance and repair of the Project. The Principal Project Contracts then in effect and the Governmental Approvals that have been obtained and are then in full force and effect create rights in VDOT sufficient to enable VDOT to own, construct, operate, maintain and repair the Project and to perform its obligations under the Principal Project Contracts to which it is a party. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(u) Insurance. To the best of Borrower's knowledge and after due inquiry, VDOT is in compliance with all insurance obligations under, and maintains, or causes to be maintained, at all times and with responsible insurers, all insurance as required by, each of the Principal Project Contracts.

(v) Title. The Borrower has valid legal and beneficial title to, or a valid leasehold interest in, the personal property and other assets and revenues thereof (including the Pledged Revenues and the Trust Estate) on which it purports to grant Liens pursuant to the Indenture Documents, in each case free and clear of any Lien of any kind, except for Liens on the Senior Obligations and Intermediate Lien Obligations.

(w) No Liens. Except for the Liens in favor of the Senior Obligations and Intermediate Lien Obligations, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Trust Estate, the Project, the Pledged Revenues, or the properties or assets in relation to the Project.

(x) Intellectual Property. To the Borrower's knowledge, VDOT owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the operation of its business. To the Borrower's knowledge, there exists no conflict

with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available “off-the-shelf” software, to the Borrower’s knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(y) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(z) Financial Statements. Each income statement, balance sheet, and statement of operations and cash flows (collectively, “**Financial Statements**”) delivered to the TIFIA Lender pursuant to Section 21(c) (Financial Statements) has been prepared in accordance with GASB and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GASB.

(aa) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(bb) ERISA. Neither the Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Tax Code.

(cc) Sufficient Funds. The aggregate of (i) all funds that are undrawn but fully and completely committed under the Indenture Documents, this Agreement, and the SPA and (ii) all funds available under any other unused funding that is committed and available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule (and in any event on or prior to the Projected Substantial Completion Date).

(dd) Sovereign Immunity. The Borrower has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any breach of contract action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder.

(ee) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

(ff) Compliance with Federal Requirements. With respect to the Project, the Borrower and VDOT have complied with all applicable requirements of NEPA, the Uniform

Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).

(gg) Borrower's Reliance on VDOT's Certificate. To assist with the Borrower's compliance under this Section 13, but without limiting the applicability or effect of Section 19(a)(iv) (*Misrepresentation Default*), the Borrower may rely on a certificate of an authorized representative of VDOT, as well as VDOT's representations, warranties and certificates in the VDOT Direct Agreement, as to VDOT's compliance with the applicable representations and warranties required herein.

Section 14. Representations and Warranties of TIFIA Lender. The TIFIA Lender hereby makes the following representations and warranties as of the Effective Date:

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

Section 15. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens in and to the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the TIFIA Lender pursuant to the Indenture Documents, or intended so to be granted pursuant to the Indenture Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Trust Estate free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Indenture Documents and all the rights of the Trustee for the benefit of the TIFIA Lender under the Indenture Documents against all claims and demands of all Persons whomsoever, subject to the Liens securing the Senior Obligations and Intermediate Lien Obligations.

(b) Copies of Documents.

(i) The Borrower shall furnish to the TIFIA Lender a copy of any draft documents and final offering documents (including any Indenture Documents) and cash flow projections prepared in connection with the incurrence of any Permitted Debt [(including the 2023 Project BANs)] or other indebtedness subject to approval by the TIFIA Lender pursuant to Section 16(a) (*Indebtedness*), in each case prior to the incurrence of any such Permitted Debt or such other indebtedness, as well as copies of any continuing disclosure documents, prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt or such other indebtedness, in each case promptly following the preparation or filing thereof. Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (i) copies of the then current draft documents relating to the incurrence of Permitted Debt (other than equipment leases and trade accounts included in such definition) at least thirty (30) days prior to the effective date thereof and (ii) copies of fully executed or final versions of such documentation within ten (10) days following execution or completion thereof.

(ii) The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (A) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Rating Agency that has provided, or is being requested to provide, a rating with respect to the Project or any indebtedness of the Borrower that is or will be secured by or paid from the Trust Estate or any portion thereof, including the Pledged Revenues, (B) all notices and other written communications received by the Borrower from the Trustee or any Bondholder, (C) all reports, notices and other written materials required to be sent to the Trustee or any Bondholder under the Indenture Documents, and (D) all notices delivered by or to the Borrower relating to any of the Principal Project Contracts; unless, in each case, the TIFIA Lender notifies the Borrower in writing that any such reports, notices and/or other written materials no longer need to be provided.

(iii) The Borrower shall provide written notice to the TIFIA Lender of the Borrower's intent to enter into (or approve VDOT's entry into) a Principal Project Contract or an Additional Project Contract. If the TIFIA Lender requests a copy of any Additional Project Contract that is not subject to approval by the TIFIA Lender, the Borrower shall provide a copy of the final or near final draft of such Additional Project Contract, together with any related contracts, side letters or other understandings, prior to the execution thereof (provided such request is made prior to the execution of such contract). The Borrower shall provide to the TIFIA Lender an executed version of each Principal Project Contract, each Additional Project Contract that is subject to TIFIA Lender consent, and, if requested by the TIFIA Lender, each Additional Project Contract that is not subject to TIFIA Lender consent, in each case together with any related contracts, side letters or other understandings, promptly following the full execution thereof. Copies of drafts of the foregoing may be provided by email notice and a link to the proposed board of directors' agenda items.

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Debarment and Suspension Requirements. The Borrower shall comply with 2 CFR Part 180, including Subpart C, in particular §§ 180.300 and 180.320, and with 2 CFR § 1200.332.

(e) Compliance with Principal Project Contracts. The Borrower shall ensure that VDOT complies in all material respects with its obligations under each Principal Project Contract and pursues all available remedies pursuant thereto to ensure VDOT's continued compliance therewith, including:

(i) Achievement of Substantial Completion of the Project in accordance with the respective Construction Schedule;

(ii) VDOT's and each Construction Contractor's compliance with 2 CFR Part 180, including Subpart C, in particular §§ 180.300 and 180.320, and with 2 CFR § 1200.332;

(iii) VDOT's operation and maintenance of the Project and enforcement of all Tolling Systems Contracts to which it is a party;

(iv) VDOT's maintenance and compliance with all Government Approvals necessary for the development, construction, operation, and maintenance of the Project; and

(v) each Construction Contractor's maintenance of all performance security instruments and insurance coverages and amounts required by the applicable Principal Project Contract.

(f) Notice.

(i) The Borrower shall, within five (5) Business Days after the Borrower learns of the occurrence, give the TIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event, and including any relevant and significant documentation:

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit L**;

(B) Defaults; Events of Default: the occurrence of any Default or Event of Default;

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit,

action, or proceeding, or of any written claim against the Borrower or VDOT with respect to the Project that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$5,000,000 (inflated annually by the annual change in CPI), either individually or in the aggregate;

(D) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(E) Environmental Notices: any notice of material violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(F) Amendments: except as otherwise agreed by the TIFIA Lender in writing, copies of (1) any proposed amendments to any Principal Project Contract or other Related Document at least thirty (30) days prior to the effective date thereof and (2) fully executed amendments within ten (10) days following execution thereof;

(G) Principal Project Contract Defaults: any material breach or default or event of default on the part of the Borrower, VDOT, or any other party under any Principal Project Contract or any Additional Project Contract;

(H) Compensation Event; Compensable Maintenance Events; Contractor Acts: the occurrence of any event that the Borrower has determined constitutes, or would reasonably be expected to determine to constitute, a Compensation Event, Compensable Maintenance Event, or Contractor Act under (and each as defined in) the MTA, a copy of any Compensation Event Notice (as defined in the MTA) or notice of a Compensable Maintenance Event or Contractor Act delivered by the Borrower under the MTA and any material written response from VDOT to such Compensation Event Notice or notice of either a Compensable Maintenance Event or a Contractor Act;

(I) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect;

(J) Project Changes: any (1) change to the Total Project Costs forecasts in excess of five percent (5%) of total forecasted Total Project Costs, together (in the case of increased costs) with a written description of the committed funding sources available to the Borrower to pay for such increased Total Project

Costs, (2) proposed change to the Projected Substantial Completion Date, together with an explanation of the reasons for such proposed adjustment, and (3) material change to the Construction Schedule, together with a proposed revised Construction Schedule;

(K) Ratings Changes: any change in the rating assigned to any Bonds by any Rating Agency that has provided a public rating on such indebtedness, the Borrower, or the Pledged Revenues;

(L) 2 CFR Notices: (1) that any of the information set forth in the certificate provided pursuant to Section 12(a)(v) (*Conditions Precedent to Effectiveness*) was incorrect at the time the certificate was delivered or there has been a change in status of the Borrower or any of its principals with respect to the criteria set forth in 2 CFR § 180.335; (2) any other notification required pursuant to 2 CFR § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the TIFIA Loan as described in 2 CFR § 200.113, and the Borrower shall require VDOT, the Construction Contractors, and each of their subcontractors for the Project to provide it notice of any such violation;

(M) Appropriations: if the appropriation of the HRTF Revenues to the HRTF (1) was not included in each biennial budget or any supplemental budget that is presented to the General Assembly, and/or (2) if the General Assembly failed to appropriate for the next State fiscal biennium;

(N) Material Events: the filing of (together with a copy of) any notice to the Municipal Securities Rulemaking Board of any of the events described in clause (b)(5)(i)(C) of Rule 15c2-12 of the U.S. Securities and Exchange Commission (or any similar rule); and

(O) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect.

(ii) The Borrower shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in Section 15(f)(i) (*Notice*).

(g) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 15(f)(i) (*Notice*) (other than in Section 15(f)(i)(A) (*Substantial Completion*), Section 15(f)(i)(F) (*Amendments*), or Section 15(f)(i)(K) (*Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(h) Maintain Legal Structure. The Borrower shall maintain its existence as a body politic and a political subdivision under the laws of the State. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force

and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(i) Annual Rating. The Borrower shall, commencing in 2024, no later than the last Business Day of June of each year during the term of the TIFIA Bond, at no cost to the TIFIA Lender, provide to the TIFIA Lender a public rating on the TIFIA Bond and any other Bonds outstanding by a Rating Agency, together with the rating report or letter delivered by such Rating Agency in connection with each such rating, if any, in each case prepared no earlier than June 1 of such year.

(j) Project Funds; Permitted Investments.

(i) The Borrower shall fund the TIFIA Debt Service Reserve Fund in an amount equal to the TIFIA Debt Service Reserve Required Balance by no later than the date that is the later of (A) the Substantial Completion Date and (B) the date the final disbursement of the TIFIA Loan. Thereafter, the Borrower shall maintain the TIFIA Debt Service Reserve Fund in an amount equal to the TIFIA Debt Service Reserve Required Balance. To the extent that a Debt Service Reserve Fund is established at any lien level with respect to any other Series (as defined in the Indenture) of Bonds, the Borrower shall maintain such Debt Service Reserve Fund in an amount equal to the relevant Debt Service Reserve Requirement in accordance with the provisions of this Agreement and the applicable Indenture Documents. Amounts in any Debt Service Reserve Fund shall be made available to ensure the timely payment of the principal, interest, and premium, if any, on the Bonds to which it relates.

(ii) To the extent not provided in Section 15(j)(i) (Project Funds; Permitted Investments), the Borrower shall cause the other Reserve Accounts to be funded in such amounts and under such conditions as are required by this Agreement and the Indenture Documents.

(iii) Amounts on deposit in the Project Funds shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the TIFIA Debt Service Reserve Fund, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the TIFIA Debt Service Fund or in any debt service account in respect of Senior Obligations corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, (C) with respect to Permitted Investments maintained in the TIFIA Debt Service Fund or in any debt service account for Senior Obligations corresponding to amounts needed for the repayment of principal, the next Payment Date for repayment of principal in respect of such debt, and (D) with respect to any other Project Funds, on or prior to the date on which the funds invested in such Permitted Investments are reasonably expected to be needed for any payment from the applicable Project Fund. The Borrower shall, promptly but in any event within five (5) days, liquidate any investment that was, but no longer is, a Permitted Investment and shall invest the proceeds of such investment solely into one or more Permitted Investments.

(iv) The Borrower may replace all or a portion of the required balance of any Reserve Account, in accordance with the terms of the applicable Indenture Documents, with an Acceptable Letter of Credit provided by a financial institution with an Acceptable Credit Rating. If at any time an issuer of an Acceptable Letter of Credit securing a Reserve Account ceases to be a Qualified Issuer, the Borrower shall cause such letter of credit to be replaced by a new Acceptable Letter of Credit within ten (10) calendar days of the date on which the current issuer ceased to be a Qualified Issuer, or the Trustee shall be permitted to immediately draw the full amount of such letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account. Any new Acceptable Letter of Credit shall have the same terms and conditions (including expiration date and face amount) as the letter of credit being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender. If any letter of credit securing a Reserve Account is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit with a new Acceptable Letter of Credit at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Acceptable Letter of Credit shall be in an amount equal to at least the amount of expiring letter of credit. If the Borrower fails to provide such new Acceptable Letter of Credit by the date required above, the Trustee shall (and the TIFIA Lender shall have the right to direct the Trustee to) immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account.

(k) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments, and governmental charges or levies imposed upon it or upon the Trust Estate or any portion thereof, including the Pledged Revenues, or the Borrower's other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid might give rise to a Lien upon the Project or any other portion of the Toll Roads System or on the Trust Estate or any portion thereof, including the Pledged Revenues; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GASB, applied on a consistent basis.

(l) HRTF Transfers. For so long as the Toll TIFIA Loan remains outstanding, the Borrower shall make the transfers described below from the General Fund:

(i) By no later than the Debt Service Payment Commencement Date (as defined in the Toll TIFIA Loan Agreement), the Borrower shall transfer HRTF Revenues in an amount equal to the TIFIA Debt Service Reserve Required Balance (as defined in the Toll TIFIA Loan Agreement) to the Toll Indenture Trustee for deposit to TIFIA Loan Reserve Account established under the Toll Indenture.

(ii) By no later than the Debt Service Payment Commencement Date (as defined in the Toll TIFIA Loan Agreement), the Borrower shall transfer HRTF Revenues

in the amount of \$10,000,000 to the Toll Indenture Trustee for deposit to the Toll Revenue Stabilization Fund.

(iii) On or before each July 15, the Borrower shall transfer HRTF Revenues to the Toll Indenture Trustee for deposit to the Toll Revenue Stabilization Fund in an amount equal the difference, if any, between \$10,000,000 and the amount on deposit in the Toll Revenue Stabilization Fund as of such date.

(iv) Major Maintenance and Renewal Fund Required Amount; MMRF HRTF Cumulative Transfer Cap.

(A) By no later than the later of (A) the Substantial Completion Date and (B) the date of the initial disbursement of the Toll TIFIA Loan under the Toll TIFIA Loan Agreement, the Borrower shall transfer HRTF Revenues in an amount equal to the Major Maintenance and Renewal Fund Required Amount (as defined in the Toll TIFIA Loan Agreement) to the Toll Indenture Trustee for deposit to Major Maintenance and Renewal Fund established under the Toll Indenture.

(B) On or before each July 15 while the Toll TIFIA Loan remains outstanding the Borrower shall transfer HRTF Revenues to the Toll Indenture Trustee for deposit to the Major Maintenance and Renewal Fund established under the Toll Indenture in an amount equal the difference, if any, between Major Maintenance and Renewal Fund Required Amount (as defined in the Toll TIFIA Loan Agreement) and the amount on deposit in the Major Maintenance and Renewal Fund as of such date; provided, that cumulative amount of HRTF Transfers made pursuant to this Section 15(l)(v) through the Final Maturity Date shall not exceed the MMRF HRTF Cumulative Transfer Cap.

(C) If at any time the MMRF HRTF Cumulative Transfer Cap, as estimated biennially by the Consulting Engineer, would exceed the upper limit for the MMRF HRTF Cumulative Transfer Cap as authorized by the Borrower's governing body, the Borrower shall cause its governing body to authorize an increase to the upper limit of the MMRF HRTF Cumulative Transfer Cap that is no lower than the MMRF HRTF Cumulative Transfer Cap most recently estimated by the Consulting Engineer. The Borrower's failure to deliver written evidence satisfactory to the TIFIA Lender of the authorization of such increase to the MMRF HRTF Cumulative Transfer Cap by its governing body within one hundred twenty (120) days of the date of any estimate of the MMRF HRTF Cumulative Transfer Cap by the Consulting Engineer that would exceed the then-current upper limit to the MMRF HRTF Cumulative Transfer Cap approved by the Borrower's governing body shall be an Event of Default pursuant to Section 19(a)(xii) (*Events of Default – MMRF HRTF Cumulative Transfer Cap*).

(m) Hedging.

(i) As a condition to the issuance of any Senior Obligations or Intermediate Lien Obligations that bear interest at a Variable Interest Rate, the Borrower shall enter into a Qualified Hedge with respect to such Senior Obligations or Intermediate Lien Obligations and shall maintain such Qualified Hedge in place until the earlier to occur of (i) the maturity date of any such Senior Obligations or Intermediate Lien Obligations and (ii) the Final Maturity Date. Each Qualified Hedge must have an aggregate stated notional amount of not less than (A) during the Construction Period, at least ninety percent (90%) and not more than one hundred ten percent (110%) of the aggregate principal amount of the Variable Interest Rate Obligations projected to be outstanding during such time period and (B) at all other times, at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of the Variable Interest Rate Obligations projected to be outstanding until the maturity of such Variable Interest Rate Obligations. Any such Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of the applicable Variable Interest Rate Obligations subject to such Qualified Hedge. Such Qualified Hedge shall have a stated maturity or termination date not earlier than the earlier to occur of (x) the Final Maturity Date and (y) the final maturity date of the Variable Interest Rate Obligations subject to such Qualified Hedge.

(ii) Each Qualified Hedge shall provide for a fixed interest rate resulting in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's obligations to pay Hedging Obligations and Hedging Termination Obligations shall be from the sources and in the priority specified in the Indenture Documents. The Borrower shall ensure that, as of the day following the termination date of any Qualified Hedge that for any reason terminates before the final maturity date of the Variable Interest Rate Obligations subject to such Qualified Hedge, (A) a Subsequent Qualified Hedge (as defined below) is in full force and effect or (B) the Variable Interest Rate Obligations have been converted to a fixed rate, in each case in accordance with this Agreement and the Indenture Documents.

(iii) Any Hedging Transaction entered into subsequent to the initial Qualified Hedge (a "**Subsequent Qualified Hedge**") shall (A) be a Qualified Hedge, (B) commence no later than the termination date of the Qualified Hedge that is terminating and (C) terminate no earlier than the earlier to occur of (1) the Final Maturity Date and (2) the final maturity date of the Variable Interest Rate Obligations subject to such Subsequent Qualified Hedge.

(iv) The Borrower shall not commence seeking any bids from any Qualified Hedge Provider for a Subsequent Qualified Hedge unless, at least thirty (30) days prior thereto, the Borrower has delivered to the TIFIA Lender evidence satisfactory to the TIFIA Lender and certified by the Borrower's Authorized Representative that the process to be utilized by the Borrower for selecting such Subsequent Qualified Hedge is a competitive process designed to obtain a fair market price and to avoid conflicts of interest. At the time the Subsequent Qualified Hedge is priced, the Borrower shall provide to the TIFIA Lender a certificate from a qualified third party acceptable to the TIFIA Lender to

the effect that either the underlying fixed rate or the price of acquiring such Subsequent Qualified Hedge is a fair price based on the interest rate market at the time such Qualified Hedge is priced.

(v) The Trustee shall be granted a security interest in each Qualified Hedge and payments due under each Qualified Hedge in order to secure the Borrower's obligations under the TIFIA Loan Documents. The Hedging Agreements shall provide that all payments due thereunder to the Borrower shall be made directly to the Trustee for deposit and disbursement in accordance with the Indenture Documents.

(vi) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the TIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(vii) If at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within thirty (30) days (or such lesser number of days required by the applicable Hedging Agreement, including any credit support annex thereto) of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank's Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this (m) (*Hedging*); provided that if the disqualified Hedging Bank's highest credit rating from any Rating Agency is less than 'A-', 'A3' or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).

(n) Credit Facilities.

(i) The Borrower may replace all or a portion of the Debt Service Reserve Requirement for any Debt Service Reserve Fund (or any account thereunder), in accordance with the terms of the applicable Indenture Documents, with a Credit Facility provided by a Qualified Issuer, provided, that the terms and conditions of any such Credit Facility shall provide that any amount payable to the provider of such Credit Facility that exceeds the debt service otherwise normally payable in respect of the indebtedness to which such Credit Facility relates (including any excess principal, interest and fees) shall be payable solely after level SECOND in Section 8.5(b) of the Indenture (as amended in the TIFIA Supplemental Indenture).

(ii) The Borrower shall not enter into any Credit Facility that permits the provider of such Credit Facility to accelerate the Borrower's reimbursement obligations.

(iii) If at any time the issuer of a Credit Facility ceases to be a Qualified Issuer, the Borrower shall cause such Credit Facility to be replaced by a new Credit Facility from a Qualified Issuer within ten (10) calendar days of the date on which the current issuer ceased to be a Qualified Issuer, or the Trustee shall be permitted to immediately draw the full available amount of such Credit Facility and deposit the proceeds of such drawing into the applicable Debt Service Reserve Fund and the TIFIA Lender shall be permitted to direct the Trustee to make such draw. Any new Credit Facility shall have the same terms and conditions (including expiration date and face amount) as the Credit Facility being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender.

(iv) If any Credit Facility securing a Debt Service Reserve Fund is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such Credit Facility with a new Credit Facility from a Qualified Issuer at least thirty (30) calendar days prior to the stated expiry date of the existing Credit Facility and such new Credit Facility shall be in an amount equal to at least the amount of the expiring Credit Facility. If the Borrower fails to provide such new Credit Facility from a Qualified Issuer by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing Credit Facility and deposit the proceeds of such drawing into the applicable Reserve Fund and the TIFIA Lender shall be permitted to direct the Trustee to make such draw.

(o) SAM Registration. The Borrower shall (i) maintain its active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the TIFIA Lender evidence of such active registration status with no active exclusions listed in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

(p) Immunity. The Borrower agrees that it will not assert any immunity (and hereby confirms that it has no such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the contractual obligations of the Borrower under this Agreement or any other TIFIA Loan Document.

(q) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to the Borrower, then the Borrower will provide written notice to the TIFIA Lender of the same and will promptly establish an anti-money laundering compliance program that complies with all requirements of the Patriot Act.

(r) Cargo Preference Act. Pursuant to 46 CFR Part 381, the Borrower hereby agrees as follows, and shall insert the following clauses in contracts entered into by the Borrower

pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) At least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with TIFIA Loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(ii) Within twenty (20) days following the date of loading for shipments originating within the United States of America or within thirty (30) Business Days following the date of loading for shipments originating outside the United States of America, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in clause (i) above shall be furnished to both the TIFIA Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(s) Lobbying. The Borrower shall comply with all applicable certification, declaration and/or disclosure requirements under 49 CFR Part 20.

(t) Reporting Subawards and Executive Compensation. To the extent applicable, the Borrower shall comply, and shall require each subrecipient to comply, with the reporting requirements set forth in **Exhibit P** hereto.

(u) Buy America.

(i) The Borrower agrees that steel, iron, and manufactured products used in the Project are subject to 23 U.S.C. § 313, as implemented by FHWA. The Borrower acknowledges that this Agreement is neither a waiver of 23 U.S.C. § 313(a) nor a finding under 23 U.S.C. § 313(b).

(ii) The Borrower agrees that construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by the Office of Management and Budget, USDOT, and FHWA. The Borrower acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Section 16. Negative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Prior to the incurrence of Additional Obligations, the Borrower shall provide to the TIFIA Lender (A) a certificate signed by the Borrower's Authorized Representative, demonstrating to the TIFIA Lender's satisfaction that such proposed

indebtedness is authorized pursuant to this Section 16(a) (Indebtedness) and satisfies the applicable requirements under the definitions of “Permitted Debt” and “Additional Obligations,” as applicable and (B) a copy of all certificates and reports provided to the Trustee in connection with such Additional Obligations in accordance with the requirements of the Indenture.

(ii) Except for Additional Obligations that satisfy each of the applicable requirements, the Borrower shall not, without the prior written consent of the TIFIA Lender, issue or incur indebtedness under the Indenture; provided that (1) the Borrower shall not incur any indebtedness of any kind payable from, secured or supported by the Trust Estate, including Additional Obligations, following the occurrence, and during the continuation, of an Event of Default, and (2) the Borrower shall not issue any additional Subordinate Obligations without the prior written consent of the TIFIA Lender.

(iii) The Borrower shall not issue Subordinate Obligations which bear interest at a Variable Interest Rate.

(iv) To the extent any Obligations consists of Put Bonds, the Borrower must maintain a Credit Facility that will pay any amounts payable by the Borrower in respect of such Put Bonds.

(b) No Lien Extinguishment; Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, (i) extinguish, impair, or transfer the Liens on the Trust Estate granted pursuant to the Indenture, (ii) terminate, assign, amend, modify, replace, or supplement any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan, (iii) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan, (iv) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any Principal Project Contract except for termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect (in the TIFIA Lender’s determination), or (v) agree to (A) any material amendment to a Principal Project Contracts, including a change to the Construction Schedule attached thereto, or (B) the use of the Project by VDOT other than for the purposes described in the Principal Project Contract. Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or waivers or supplements to any Related Document at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification, waiver or supplement to any Related Document within five (5) Business Days after execution thereof.

(c) No Prohibited Liens. Except for the Liens granted pursuant to the Indenture Documents, the Borrower shall not create, incur, assume or permit to exist any Lien on the Trust Estate, the Pledged Revenues, or the Borrower’s respective rights therein. The Borrower shall not collaterally assign any of its rights under or pursuant to any Principal Project Contract and shall not permit a Lien to encumber the Borrower’s rights or privileges under any Principal Project

Contract, except pursuant to the Indenture Documents in favor of the Trustee on behalf of the Secured Parties.

(d) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease, or assign its rights and obligations under any Related Document, unless such sale, lease or assignment (A) could not reasonably be expected to result in a Material Adverse Effect, and (B) is made by the Borrower in the ordinary course of business.

(e) Organizational Documents; Fiscal Year. The Borrower shall not at any time (i) amend or modify its Organizational Documents (other than any amendment or modification that is of a ministerial nature and that is not adverse to the interests of any Secured Party under the Indenture or in the Trust Estate) without the prior written consent of the TIFIA Lender, or (ii) adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the TIFIA Lender.

(f) Transactions with other Governmental Authorities. Except for the transactions expressly contemplated in the TIFIA Loan Documents, the Borrower shall not engage in any other transactions in connection with the Project with any other Governmental Authority (including any other Governmental Authority of or in the State), the terms and provisions of which are materially adverse to the Borrower or the Project or that could reasonably be expected to result in a Material Adverse Effect.

(g) No Payment with Federal Funds. The Borrower shall not pay any portion of TIFIA Debt Service nor any other amount to the TIFIA Lender or to the Federal Government pursuant to the TIFIA Loan Documents with funds received directly or indirectly from the Federal Government; provided, however, that the Borrower may prepay the TIFIA Loan in whole or in part with the proceeds of a validly issued federal credit instrument pursuant to, and in accordance with, Section 10 (Prepayment).

(h) Change in Legal Structure; Mergers and Acquisitions. The Borrower shall not, and shall not agree to, reorganize, consolidate with, or merge into another Person unless (A) such Person is a successor public entity or agency created by State law that succeeds to the assets of the Borrower and assumes the obligations of the Borrower hereunder and under the Related Documents to which the Borrower is a party, including payment of the TIFIA Bond and (B) such merger, consolidation, or reorganization does not adversely affect or impair to any extent or in any manner (1) the Pledged Revenues or other elements of the Trust Estate, or (2) the availability of the Pledged Revenues for the payment and security of the obligations of the Borrower under this Agreement and the other TIFIA Loan Documents; and (B) the Borrower provides to the TIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the TIFIA Lender. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the TIFIA Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party. In addition, the Borrower shall provide all

information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the TIFIA Lender.

(i) No Defeasance of TIFIA Bond. The Borrower shall not defease the TIFIA Bond pursuant to the Indenture and the TIFIA Supplemental Indenture without the prior written consent of the TIFIA Lender.

(j) OFAC Compliance.

(i) The Borrower shall not:

(A) violate (1) any applicable Anti-Money Laundering Laws, (2) any applicable Sanctions, (3) any applicable Anti-Corruption Laws or (4) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal;

(B) use the proceeds of the TIFIA Loan for purposes other than those permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents; or

(C) make a payment, directly or indirectly, to any Principal Project Party that (1) to the Borrower's knowledge, has violated any of the laws referenced in this Section 16(j)(i) (OFAC Compliance) or (2) is a Sanctioned Person.

(ii) The Borrower shall ensure that each of its directors, officers, employees, and agents, shall not, directly or indirectly, use the proceeds of the TIFIA Loan or lend to, make any payment to, contribute or otherwise make available any funds to any affiliate, joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the TIFIA Lender or any Principal Project Party).

(k) Hedging. Other than interest rate hedging transactions expressly permitted hereunder, the Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, "cap" or "collar" transactions, futures, or any other hedging transaction without the prior written consent of the TIFIA Lender.

Section 17. Indemnification. To the fullest extent permitted by applicable law, the Borrower shall indemnify the TIFIA Lender and any official, employee, agent, advisor, or representative of the TIFIA Lender (each such Person being herein referred to as an "**Indemnatee**") against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnatee arising out of, in

connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 17 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 17. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the TIFIA Lender shall assert, and each of the Borrower and the TIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the TIFIA Loan or the use of the proceeds thereof, provided that nothing in this sentence shall limit the Borrower's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 17 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 17 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 17) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 18. Sale of TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. At any time after Substantial Completion, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section 18. Any such sale or reoffering shall be on such terms as the TIFIA Lender shall deem acceptable in its sole discretion. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower in accordance with Section 29 (*Amendments and Waivers*). The TIFIA Lender shall provide, at least thirty (30) days prior to any sale or reoffering of the TIFIA Loan, written notice to the Borrower of the TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to

this Section 18 shall not (x) obligate the TIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan.

Section 19. Events of Default and Remedies.

(a) An “**Event of Default**” shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any amount of principal of or interest on the TIFIA Loan (including TIFIA Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*), and any mandatory prepayment required pursuant to the provisions of Section 10(a) (*Mandatory Prepayments*)), when due and payable (each such failure, a “**Payment Default**”).

(ii) Covenant Default. The Borrower or VDOT shall fail to observe or perform any covenant, agreement or obligation of the Borrower or VDOT under this Agreement (including any payment of fees or other amounts (other than principal and interest) payable hereunder), the TIFIA Bond or any other TIFIA Loan Document to which it is a party (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the TIFIA Lender of written notice thereof, (B) the Borrower’s or VDOT’s knowledge of such failure, or (C) with respect to any non-payment of fees or amounts described above in this clause (ii), the date on which any such fees or amounts became due and payable; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 19(a)(ii)(A), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower or VDOT, as applicable, shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date specified in either clause (A) or (A) above, as applicable; provided, further, that no extension of the thirty (30) day cure period shall be permitted for any failure to pay any fee or other amount (excluding principal and interest) payable hereunder.

(iii) Development Default. A Development Default shall occur.

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower or VDOT made in or delivered pursuant to the TIFIA Loan Documents to which it is a party (or in any certificates delivered by the Borrower in connection with the TIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any

respect); provided that no Event of Default shall be deemed to have occurred under this Section 19(a)(iv) (Misrepresentation Default) if and so long as:

(A) such misrepresentation is not intentional;

(B) such misrepresentation is not a misrepresentation in respect of Section 13(h) (No Debarment), Section 13(j) (Transportation Improvement Program), Section 13(p) (OFAC; Anti-Corruption Laws), Section 13(ee) (Patriot Act), or Section 13(ff) (Compliance with Federal Requirements), or Section 4.1(n) (OFAC; Anti-Corruption Laws) of the VDOT Direct Agreement;

(C) in the reasonable determination of the TIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect;

(D) in the reasonable determination of the TIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured;

(E) the underlying issue giving rise to the misrepresentation is cured by the Borrower or VDOT, as applicable, within thirty (30) days from the date on which the Borrower or VDOT, as applicable, first became aware (or reasonably should have become aware) of such misrepresentation; and

(F) the Borrower (or VDOT, if the applicable misrepresentation is in respect of VDOT) diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Senior Obligations, Intermediate Lien Obligations or Subordinate Obligations. Any acceleration shall occur of the maturity of any Senior Obligations, Intermediate Lien Obligations, or Subordinate Obligations, or any such Senior Obligations, Intermediate Lien Obligations, or Subordinate Obligations shall not be paid in full upon the final maturity thereof.

(vi) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$5,000,000 (inflated annually by the annual change in CPI) that are payable from the Trust Estate or any portion thereof, including the Pledged Revenues, and are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment.

(vii) Failure to Maintain Existence; Organizational Documents. The Borrower shall fail to maintain its existence as a body politic and a political subdivision created and existing under the laws of the State or the HRTAC Act shall be repealed or amended or modified in such a manner as could reasonably be expected to result in a

Material Adverse Effect, unless at or prior to the time the Borrower ceases to exist in such form or the repeal or amendment of the HRTAC Act described above becomes effective, a successor public agency or governing body has been created by the State pursuant to a valid and unchallenged State law and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the TIFIA Loan Documents, the Indenture Documents and the Toll Indenture, including the payment of all Secured Obligations.

(viii) Occurrence of a Bankruptcy Related Event.

(A) A Bankruptcy Related Event shall occur with respect to the Borrower.

(B) A Bankruptcy Related Event shall occur with respect to any letter of credit issuer; provided, that no Event of Default shall be deemed to have occurred or be continuing under this clause (B) if such letter of credit issuer is replaced by a new issuer that is a Qualified Issuer within ten (10) Business Days after the occurrence of such Bankruptcy Related Event.

(C) A Bankruptcy Related Event shall occur with respect to any Principal Project Party; provided, that (1) prior to Substantial Completion of the Project, the occurrence of a Bankruptcy Related Event with respect to any Construction Contractor shall not constitute an Event of Default if the Borrower or VDOT shall have promptly provided evidence satisfactory to the TIFIA Lender demonstrating that the Construction Contractor has been replaced with a substitute Construction Contractor that has sufficient financial resources and operating expertise to complete their respective Principal Project Contract in accordance with the applicable Construction Schedule for such Project, and (2) after Substantial Completion of the Project, the occurrence of a Bankruptcy Related Event with respect to any Construction Contractor party to such Project Construction Contract shall not constitute an Event of Default solely with respect to the Project if at the time of such occurrence, (I) no claim against any warranty under the applicable Principal Project Contract to which such Construction Contractor is a party exists or remains outstanding, or (II) the Borrower promptly provides evidence satisfactory to the TIFIA Lender showing that the Borrower has (x) sufficient moneys to correct any defect or nonconforming work of such Construction Contractor, and (y) a plan to carry out such works referred to in clause (x) hereof.

(ix) Project Abandonment. Any Borrower Related Party shall abandon the Project.

(x) Invalidity of TIFIA Loan Documents. (A) Any TIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any TIFIA Loan Document to which it is a party or denies it has any further liability under any TIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any TIFIA

Loan Document to which it is a party; or (B) any Indenture Document ceases (other than as expressly permitted thereunder) to be effective to grant a valid and binding security interest on any material portion of the Trust Estate, including the Pledged Revenues, other than as a result of actions or a failure to act by, and within the control of, the Trustee or any Secured Party, and with the priority purported to be created thereby.

(xi) Cessation of Operations. Operation of a material portion of the Express Lanes Network shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of any Borrower Related Party (and which any Borrower Related Party could not reasonably have avoided or mitigated) and the Borrower shall have in force an insurance policy or policies under which the Borrower is entitled to recover amounts sufficient to pay (and may use such amounts to pay) costs and expenses of the Borrower during such cessation of operations.

(xii) MMRF HRTF Cumulative Transfer Cap. In any event where the MMRF HRTF Cumulative Transfer Cap, as estimated by the Consulting Engineer, would exceed the upper limit to the MMRF HRTF Cumulative Transfer Cap authorized by the board of commissioners of the Borrower, the Borrower shall fail to deliver written evidence satisfactory to the TIFIA Lender, within one hundred twenty (120) days of the date of such estimate of the MMRF HRTF Cumulative Transfer Cap by the Consulting Engineer, that the Borrower's governing body has increased the upper limit to the MMRF HRTF Cumulative Transfer Cap to an amount equal to or greater than the updated MMRF HRTF Cumulative Transfer Cap estimated by the Consulting Engineer.

(b) Upon the occurrence of an Event of Default described in Section 19(a)(iii) (Development Default), the TIFIA Lender may (i) suspend the disbursement of TIFIA Loan proceeds hereunder, (ii) terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan, and/or (iii) demand that the Borrower immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower, in which event the Borrower shall immediately repay any such unexpended TIFIA Loan proceeds to the TIFIA Lender.

(c) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated, and, to the extent permitted under the Indenture Documents, the Outstanding TIFIA Loan Balance, together with all interest accrued thereon and all fees, costs, expenses, indemnities, and other amounts payable under this Agreement, the TIFIA Bond, or the other TIFIA Loan Documents with respect to the TIFIA Loan, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest, or other requirements of any kind, all of which are hereby expressly waived.

(d) Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may (i) suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan, and (ii) to the extent permitted under the Indenture Documents, declare the unpaid principal amount of the TIFIA Bond

to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Bond, or the other TIFIA Loan Documents with respect to the TIFIA Loan, all without presentment, demand, notice, protest, or other requirements of any kind, all of which are hereby expressly waived.

(e) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder, under the TIFIA Bond or under the other TIFIA Loan Documents with respect to the TIFIA Loan, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the Trust Estate the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor and a creditor under the Uniform Commercial Code (to the extent applicable), and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts due and unpaid hereunder, under the TIFIA Bond, or under the other TIFIA Loan Documents with respect to the TIFIA Loan, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under this Agreement, the TIFIA Bond, or the other TIFIA Loan Documents.

(f) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender may suspend or debar the Borrower from further participation in any Federal Government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

(g) No action taken pursuant to this Section 19 shall relieve the Borrower from its obligations pursuant to this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all of which shall survive any such action.

Section 20. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) Accounting and Audit Procedures. The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all HRTF Revenues, so that audits may be performed to ensure compliance with and enforcement of this Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GASB, including, with respect to the TIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(b) Inspections. So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that

nothing contained in this Section 20(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 20(b) at any time when an Event of Default shall have occurred and be continuing.

(c) Reports and Records. The Borrower shall maintain and retain all files relating to the Project, the Pledged Revenues and the TIFIA Loan until three (3) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Pledged Revenues, the TIFIA Loan or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and the Borrower. The Borrower shall provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project or the Pledged Revenues that the TIFIA Lender may reasonably request from time to time.

(d) Copies of Debt Related Notices. The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Rating Agency that has provided, or is being requested to provide, a rating with respect to the Project or any indebtedness of the Borrower that is or will be secured by or paid from the Pledged Revenues, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee or any Bondholder, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee or any Bondholder under the Indenture Documents, including all such notices, other than those that are non-substantive or ministerial in nature, relating to any of the Principal Project Contracts; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) Required Audit. The Borrower shall have a single or program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F and 31 U.S.C. § 7502 in 2023 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 CFR § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 CFR § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

Section 21. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide a Financial Plan to the TIFIA Lender and the FHWA Division Office within sixty (60) days after the Effective Date and annually thereafter until the TIFIA Loan has been repaid in full, in each case not later than ninety (90) days after the beginning of each Borrower Fiscal Year. The Financial Plan submitted within sixty (60)

days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model.

(i) Each Financial Plan shall satisfy FHWA's Major Project Financial Plan requirements, as amended from time to time, and, where applicable, shall be prepared in accordance with GASB.

(ii) Together with each Financial Plan, the Borrower shall deliver: (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower's knowledge and belief and (B) an electronic copy of a Revised Financial Model for the period from the Effective Date through the Final Maturity Date, based upon assumptions and projections with respect to the Pledged Revenues, expenses and other financial aspects of the Project and the Trust Estate that shall reflect the prior experience and current status of the Project and the Pledged Revenues, and the expectations of the Borrower with respect to the Project and the Pledged Revenues, as of the most recent practicable date prior to the delivery of such Revised Financial Model, together with a change log describing such changes.

(iii) Each Financial Plan shall:

(A) provide an updated cash flow statement showing, for the Borrower Fiscal Year most recently ended, (1) actual annual cash inflows (Pledged Revenues and other income), (2) actual annual outflows (including Senior Debt Service, Intermediate Lien Debt Service, Subordinate Debt Service, TIFIA Debt Service, Operating Expenses, replenishment of reserves, and other uses), (3) Total Debt Service Coverage Ratios (measured as of the last day of the applicable Borrower Fiscal Year) and (4) coverages of the payments and deposits required pursuant to clauses First through Sixth of Section 8.1(b) of the Indenture;

(B) provide an updated cash flow statement showing projected annual amounts for each of the items described in clause (A) above, in each case through the Final Maturity Date;

(C) report on variances during the prior Borrower Fiscal Year between the actual Operating Expenses and the budgeted Operating Expenses, as shown in the Financial Plan for such prior Borrower Fiscal Year;

(D) provide a schedule of then current HRTAC Revenues applicable to any Pledged Revenues and any planned increases thereto;

(E) to the extent that any Hedging Transactions are then in effect, report on the notional amounts and mark to market values (provided by the Qualified Hedge Provider) under such Hedging Transactions, in each case as of the last day of the most recently ended Borrower Fiscal Year; and

(F) provide a written narrative that (1) explains any variances greater than 10% in comparison to the Base Case Financial Model and the most

recent Financial Plan with respect to (i) Pledged Revenues and the amounts deposited into each of the accounts and subaccounts established under the Indenture Documents; (ii) cost items that are senior to TIFIA Debt Service; (2) to the extent that any Hedging Transactions are then in effect, report on changes, if any, to the creditworthiness of the counterparties to such Hedging Transactions; (3) includes a description of any material matters that may affect the future performance by the Borrower of its obligations under this Agreement and the causes thereof, including a summary of reports prepared by or on behalf of the Borrower relating to the Pledged Revenues, Principal Project Contracts, and third-party transactions; and (4) discusses contingency measures that will or may be taken to address any of the matters reported pursuant to this sub-clause (F).

(iv) In addition to the above, prior to the Substantial Completion Date, each Financial Plan shall:

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss the reasons for and implications of the cost changes, and include a summary table showing the history of Total Project Costs by major activity or category in comparison to the Base Case Financial Model and the most recent Financial Plan;

(B) provide updates to the Construction Schedule, including major milestones for each phase of the Project (including an updated Projected Substantial Completion Date), and compare current milestone dates with the milestone dates in the Construction Schedule and in the most recent Financial Plan, and discuss the reasons for any changes to the expected completion of these Project milestones;

(C) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss the reasons for and implications of such funding changes, and include a summary table showing the history of Project funding in comparison to the Base Case Financial Model and the preceding Financial Plan;

(D) provide the total value of approved changes in Total Project Costs, and provide a listing of each individual change valued at \$5,000,000 or more, setting forth the rationale or need for such changes and describing the impact of such changes on the Project; and

(E) contain a written narrative executive summary of the topics described in clauses (A) through (D) above since the Effective Date and since the date of the information included in the most recent Financial Plan, describing in reasonable detail all material matters that may affect the future performance of the Borrower's obligations under this Agreement.

(b) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide written notification to the TIFIA Lender of any notification the Borrower receives from VDOT concerning “Additional Costs” (as defined in each Principal Project Contract) within ten (10) days of the Borrower’s receipt of the same from VDOT. The Borrower shall additionally provide the TIFIA Lender written notification of the Borrower’s and VDOT’s proposed resolution of such Additional Costs pursuant to the terms of the respective Principal Project Contract at least thirty (30) days prior to instituting any increase or decrease to the aggregate Total Project Costs in an amount equal to or greater than 5% of Total Project Costs. Such resolution shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Project, and the Financial Plan. The Borrower’s notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, and could not reasonably be expected to result in a Material Adverse Effect.

(c) Financial Statements. The Borrower shall furnish to the TIFIA Lender:

(i) (A) as soon as available, but no later than sixty (60) days after the end of the first, second and third quarterly period of each Borrower Fiscal Year, an unaudited income statement and balance sheet of the Borrower as of the end of such period and the related unaudited statements of operations and of cash flow of the Borrower for such period and for the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous period, certified by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized Representative fairly stating in all material respects the financial condition of the Borrower as at the end of such period and the results of its operations and its cash flows for such period (subject to normal year-end audit adjustments); and

(B) as soon as available, but no later than one hundred twenty (120) days after the end of each Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower as of the end of such fiscal year and the related audited statements of operations and of cash flow of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a “going concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the TIFIA Lender.

(ii) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GASB (or in the case of non-U.S. Persons, substantially equivalent principles) applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(d) Officer’s Certificate. The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited or interim unaudited financial statements of the Borrower pursuant to Section 21(c) (Financial Statements), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized

Representative, stating whether or not, to the Borrower's knowledge, during the quarterly or annual period (as the case may be) covered by such financial statements, there occurred any Default or Event of Default and, if any such Default or Event of Default shall have occurred during such period, the nature of such Default or Event of Default and the actions that the Borrower has taken or intends to take in respect thereof.

Section 22. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. The FHWA Division Office has oversight responsibility for the Project, including ensuring compliance in all material respects with all applicable provisions of federal law. The Borrower agrees to cooperate in good faith with the TIFIA Lender and the FHWA Division Office in the conduct of such monitoring by promptly requesting that VDOT provide the TIFIA Lender and the FHWA Division Office with such reports, documentation or other information as shall be requested by the TIFIA Lender and the FHWA Division Office, or its agents, including any Consulting Engineer reports, documentation or information.

(b) Reporting. The Borrower shall furnish to the TIFIA Lender the documentation described below.

(i) Monthly Construction Progress Report. On or before the last Business Day of any calendar month during the Construction Period, a report executed by a Borrower's Authorized Representative that:

(A) includes a copy of the monthly report that VDOT provides to the Borrower pursuant to each Principal Project Contract;

(B) specifies the amount of Total Project Costs expended since the Effective Date as well as during the preceding calendar month and the amount of Total Project Costs estimated to be required to complete the Project;

(C) provides a demonstration that the Borrower has sufficient funds (including funds on hand, funds available through any TIFIA Loan then in effect, and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete the Project;

(D) provides an assessment of the overall construction progress of the Project since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Construction Schedule;

(E) specifies the most recent projections for the Substantial Completion Date as compared to the Projected Substantial Completion Date specified in the Financial Plan most recently submitted to the TIFIA Lender;

(F) provides a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the construction of the Project since the date of the last report, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(G) specifies the delivery status of major equipment and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Construction Schedule;

(H) specifies any proposed or pending change orders;

(I) specifies any material changes or deviations from the Borrower's land procurement plans or schedule;

(J) to the extent received by the Borrower from VDOT, a copy of each report delivered by any Construction Contractor to VDOT that has not previously been delivered to the TIFIA Lender in a prior report delivered pursuant to this Section 22(b)(i); and

(K) provides a discussion or analysis of such other matters related to the Project as the TIFIA Lender may reasonably request. The Borrower shall respond, and use commercially reasonable efforts to cause VDOT to assist with causing the applicable Construction Contractor to respond, to the TIFIA Lender's inquiries regarding such report, the construction of the Project and any Construction Contractor's performance of its obligations under the Project Construction Contract to which such Construction Contractor is a party.

(ii) Requested Information. The Borrower shall, at any time while the TIFIA Loan remains outstanding, promptly deliver, and shall use commercially reasonable efforts to cause VDOT to promptly deliver, to the TIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project or the Pledged Revenues as the TIFIA Lender may from time to time reasonably request, including copies of agreements related to the acquisition or control of any Project right-of-way.

(c) Project Operations. For the period following the Substantial Completion Date, the TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project and, as the TIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project, and copies of any contracts relating to the operation, maintenance and safety services for the Project. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing or causing to be provided to the TIFIA Lender such reports, documentation, or other information requested by the TIFIA Lender. The TIFIA Lender has the right, in its sole discretion, to retain a financial oversight advisor, under a contract with the TIFIA Lender, to carry out the provisions of this Section 22(c), and the full cost of such monitoring shall be borne by the Borrower. Any costs

incurred by the TIFIA Lender for such monitoring, including the fees and expenses of any financial oversight advisor, shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower.

(d) Consulting Engineer. [The Borrower shall retain a Consulting Engineer, subject to approval by the TIFIA Lender, prior to the initial disbursement under the Toll TIFIA Loan.] Thereafter, the Borrower shall retain a Consulting Engineer throughout the remaining term of this Agreement. The Consulting Engineer shall advise the TIFIA Lender (with a duty of care to the TIFIA Lender) with regard to all technical matters related to the performance by the Borrower of its obligations under this Agreement and the applicable Related Documents (other than the HRTF Indenture Documents). The Borrower may replace the Consulting Engineer, subject to the TIFIA Lender's right to object to any replacement Consulting Engineer in accordance with this Section 22(d). The Borrower shall provide the TIFIA Lender with thirty (30) Business Days advance written notice of any proposed replacement of the Consulting Engineer, together with supporting information concerning the qualifications of the proposed replacement Consulting Engineer. The proposed replacement Consulting Engineer shall become the Consulting Engineer thirty (30) Business Days following the date of the notice provided by the Borrower under this Section 22(d), unless the TIFIA Lender objects in writing within fifteen (15) Business Days following receipt of the Borrower's notice. Any such objection by the TIFIA Lender shall include a reasonable description of its reasons for objecting to the proposed replacement Consulting Engineer. The Borrower shall pay for all services performed by the Consulting Engineer.

Section 23. No Personal Recourse. No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 24. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Federal Government, or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the TIFIA Lender, the Servicer (if any), the Executive Director, and the Federal Government harmless, to the extent permitted by law and in accordance with Section 17 (Indemnification), from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

Section 25. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 26. TIFIA Lender's Authorized Representative.

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the

TIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

(b) Pursuant to the delegation of authority, dated July 20, 2016, from the Secretary to the Under Secretary of Transportation for Policy, the further delegation of authority, dated July 20, 2016, from the Under Secretary of Transportation for Policy to the Executive Director of the Build America Bureau, the further delegation of authority, dated August 31, 2016 (the "Delegation") the Director of the Credit Office of the Build America Bureau has been delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. Pursuant to the Delegation, the Director of the Credit Office of the Build America Bureau may act and serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Executive Director of the Build America Bureau for the purposes set forth herein.

Section 27. Servicer. The TIFIA Lender may from time to time designate an entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Bond. The TIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Bond. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 28. Fees and Expenses.

(a) Commencing in Federal Fiscal Year ("FFY") [2025] and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the TIFIA Lender a loan servicing fee on or before the fifteenth (15th) of November. The TIFIA Lender shall establish the amount of this annual fee, and the TIFIA Lender or the Servicer, if any, shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year's base amount in proportion to the percentage change in CPI. For the FFY [2025] calculation, the TIFIA Lender will use the FFY [2024] base amount of \$[_____], which applies to other TIFIA borrowers, as the previous year's base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year's base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year's base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the

ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time to time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the documented fees, costs, and expenses of its legal counsel, financial advisors, auditors, and any technical or other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, administration, and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under or with respect to, this Agreement, any other Related Document, or the Trust Estate, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder;

(iii) any ongoing oversight and monitoring of the TIFIA Loan, the Borrower or the Project by the TIFIA Lender as provided for herein; and

(iv) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement, the other TIFIA Loan Documents, or the Indenture Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 28 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 29. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 30. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 31. Severability and Conflicts. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. In the event of a conflict between the Indenture and this Agreement, the provisions of this Agreement shall be given

precedence; provided further that in the event there exists a conflict between the provisions of this Agreement and the Indenture and performance with the provisions of this Agreement is contrary to or inconsistent with the rights of the Bondholders under the Indenture, then the provisions of the Indenture shall be given precedence and performance with the provisions thereof shall not constitute a violation of this Agreement.

Section 32. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights and obligations hereunder nor any interest therein may be assigned, delegated, or transferred by the Borrower without the prior written consent of the TIFIA Lender.

Section 33. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 34. Delay or Omission Not Waiver. No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 35. Counterparts; Electronic Signatures. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 36 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable. Each party acknowledges and agrees that it may execute this Agreement, and any amendment, modification, or waiver hereto, using Electronic Signatures. Such Electronic Signatures are intended to authenticate this writing and to have the same force and effect as handwritten signatures.

Section 36. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to TIFIA Lender:

Build America Bureau
United States Department of
Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of
Credit Programs
Email: BureauOversight@dot.gov

with copies to:

Federal Highway Administration
Virginia Division Office
400 North 8th St., Suite 750
Richmond, Virginia 23219-4825
Attn: Division Administrator
Telephone: 804-775-3320
Facsimile: 804-775-3356

If to Borrower:

Hampton Roads Transportation
Accountability Commission
The Regional Building
723 Woodlake Drive
Chesapeake, Virginia 23320
Attention: Executive Director
Email: kpage@hrtac.org

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Bond in accordance with Section 9(d) (*Manner of Payment*) and the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time to time by the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 36 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 36 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 37. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 38. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding TIFIA Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 17 (Indemnification), the reporting and record keeping requirements of Section 20(b) (Inspections) and Section 20(c) (Reports and Records), and the payment requirements of Section 28 (Fees and Expenses) shall survive the termination of this Agreement as provided in such sections.

Section 39. Integration. This Agreement, along with the TIFIA Bond, constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____
Name: _____
Title: _____

UNITED STATES DEPARTMENT OF
TRANSPORTATION, acting by and
through the Executive Director of the Build
America Bureau

By: _____
Name: Dr. Morteza Farajian
Title: Executive Director

SCHEDULE I
PROJECT BUDGET

[To be inserted]

SCHEDULE II
CONSTRUCTION SCHEDULE

[To be inserted]

SCHEDULE III
EXISTING INDEBTEDNESS

Hampton Roads Transportation Accountability Commission Hampton Roads Transportation Fund Senior Lien Revenue Bonds, Series 2018A, dated February 14, 2018 in the original principal amount of \$500,000,000.

Hampton Roads Transportation Accountability Commission Hampton Roads Transportation Fund Senior Lien Revenue Bonds Series 2020A, dated October 22, 2020 in the original principal amount of \$614,615,000.

Hampton Roads Transportation Accountability Commission Hampton Roads Transportation Fund Subordinate Lien Revenue Bond, TIFIA Successor Series 2021, dated September 21, 2021, in the original principal amount of \$500,789,463.

Hampton Roads Transportation Accountability Commission Hampton Roads Transportation Fund Subordinate Lien Revenue Bond, TIFIA Successor 2021, dated September 21, 2021, in the original principal amount of \$817,990,000.

EXHIBIT A

FORM OF TIFIA SERIES 2023 BOND

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

HAMPTON ROADS TRANSPORTATION FUND

SEGMENT 4C PROJECT

(TIFIA – [____])

**SUBORDINATE LIEN REVENUE BOND
TIFIA SERIES 2023**

**Maximum Principal Amount: [\$142,905,000]
(excluding capitalized interest)**

Effective **Date:** [____], 2023
Due: Earlier of the [35th] anniversary of Substantial Completion Date and [____], [____]

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION, a body politic and political subdivision created under the laws of the Commonwealth of Virginia (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, or its assigns (the “**TIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement (as defined below), being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the TIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with **Exhibit G** to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** to the TIFIA Loan Agreement from time to time in accordance with the terms of the TIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the TIFIA Lender’s determination of such matters as set forth on **Exhibit G** to the TIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other TIFIA Loan Document.

Payments hereon are to be made in accordance with Section 9(d) (Manner of Payment) and Section 36 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this TIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts. If the Final Maturity Date is amended in connection with an update to the Financial Plan approved by the TIFIA Lender pursuant to Section 21(a)(iii)(B) (*Financial Plan*) of the TIFIA Loan Agreement, the due date of this TIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the TIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this TIFIA Bond without the prior written agreement of the TIFIA Lender.

This TIFIA Bond has been executed under and pursuant to that certain TIFIA Loan Agreement (Segment 4C), dated as of the date hereof, between the TIFIA Lender and the Borrower (the “**TIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the TIFIA Loan Agreement to repay the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Borrower under the TIFIA Loan Agreement or the other TIFIA Loan Documents referred to therein. Reference is made to the TIFIA Loan Agreement for all details relating to the Borrower’s obligations hereunder. All capitalized terms used in this TIFIA Bond and not defined herein shall have the meanings set forth in the TIFIA Loan Agreement or, as applicable, the Indenture.

This TIFIA Bond is being issued by the Borrower pursuant to Chapter 26, Title 33.2, Code of Virginia of 1950, as amended, a resolution adopted by HRTAC on [], 2023 and under and pursuant to a Master Indenture of Trust dated as of February 1, 2018 (the “**Master Indenture**”), between the Borrower and Wilmington Trust, National Association, or its successor, as trustee (the “**Trustee**”), as supplemented and amended by the First Supplemental Series Indenture of Trust dated as of February 1, 2018 (the “**First Series Supplement**”), the Second Supplemental Series Indenture of Trust dated as of December 1, 2019 (the “**Second Series Supplement**”), the Third Supplemental Series Indenture of Trust dated as of December 15, 2019 (the “**Third Series Supplement**”), the Fourth Supplemental Series Indenture of Trust dated as of October 1, 2020 (the “**Fourth Series Supplement**”), and the Fifth Supplemental Series Indenture of Trust dated as of September 1, 2021 (the “**Fifth Series Supplement**”), the Sixth Supplemental Series Indenture of Trust dated as of September 15, 2021 (the “**Sixth Series Supplement**”), the Seventh Supplemental Series Indenture of Trust dated as of September 21, 2021 (the “**Seventh Series Supplement**”), [insert description of additional series supplements entered into after September 21, 2021] and, together with the First Series Supplement, the Second Series Supplement, the Third Series Supplement, the Fourth Series Supplement, the Fifth Series Supplement, the Sixth Series Supplement, [list additional series supplements] and the Master Indenture, the “**Indenture**”), between the Borrower and the Trustee, a certified copy of which Indenture is on file at the office of the Borrower.

This TIFIA Bond is issued as and constitutes a Subordinate Obligation within the meaning of such term in the Indenture.

This TIFIA Bond shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any political subdivision thereof (including any Member Locality) other than

the Borrower. This TIFIA Bond shall not constitute an indebtedness within the meaning of any debt limitation or restriction except as provided under Section 33.2-1920 of the Virginia Code. *The Borrower's authority to receive any or all of the taxes or other revenues pledged to the Trustee for payment of HRTAC Bonds (as defined below) pursuant to the Indenture is subject to appropriation by the General Assembly of the Commonwealth, and neither the General Assembly nor the Borrower can or will pledge, covenant or agree to impose or maintain at any particular rate or level any of such taxes or other revenues.*

The Indenture provides for the issuance, from time to time, under the conditions, limitations and restrictions therein set forth, of additional series of Bonds for the purpose of financing projects, and of refunding outstanding obligations of the Borrower. Such additional series of Bonds may be issued as Senior Obligations, Intermediate Lien Obligations, or Subordinate Obligations (as defined in the Indenture). This TIFIA Bond, together with all other obligations heretofore or hereafter issued under the provisions of the Indenture, are herein collectively referred to as the "HRTAC Bonds". Reference is hereby made to the Indenture for the provisions, among others, with respect to the terms and conditions on which the HRTAC Bonds of each series are or may be issued, the custody and application of the proceeds of HRTAC Bonds issued under the Indenture, the collection and disposition of revenues, the funds charged with and pledged to the payment of the interest on and the principal and premium, if any, of the HRTAC Bonds, the nature and extent of the security, the rights, duties and obligations of the Borrower, the Trustee and any paying agent for the HRTAC Bonds and the rights of the owners of the HRTAC Bonds. Certain of such funds, accounts and subaccounts secure only the Senior Obligations, certain of such funds, accounts and subaccounts secure only the Intermediate Lien Obligations, and certain of such funds, accounts and subaccounts secure only the Subordinate Obligations, all as more fully described in the Indenture.

This TIFIA Bond shall be subject to mandatory prepayment in accordance with the TIFIA Loan Agreement.

This TIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the TIFIA Bond in accordance with the TIFIA Loan Agreement.

Any delay on the part of the TIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

The owner of this TIFIA Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute any suit or other proceeding with respect to the Indenture, except as provided in the Indenture.

All acts, conditions and things required by the Constitution and laws of the Commonwealth to happen, exist, and be performed precedent to and in the issuance of this TIFIA Bond have

happened, exist and have been performed as so required. This TIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the Commonwealth shall govern its construction to the extent such federal laws are not applicable.

This TIFIA Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until the Trustee has executed the Certificate of Authentication appearing on this TIFIA Bond and inserted the date of authentication.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION has caused this TIFIA Bond to be signed by the manual or facsimile signature of its Chair, to be attested by the manual or facsimile signature of its Executive Director and this Bond to be dated the Effective Date set forth above.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____

Name: Donnie R. Tuck

Title: Chair

ATTEST:

By: _____

Kevin B. Page

Executive Director

CERTIFICATE OF AUTHENTICATION

This TIFIA Bond is the TIFIA Bond described in the within-mentioned Indenture.

Authentication Date: _____

WILMINGTON TRUST, NATIONAL
ASSOCIATION

By: _____

Name: Joy Holloway
Title: Vice President

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns and transfers unto

(Please Insert Social Security or other identifying number of Assignee(s)):

the within note and all rights thereunder.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within note in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE

Borrower Fiscal Year

Disbursement Amount

[]

\$[]

[]

\$[]

EXHIBIT C

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS— PRIMARY COVERED TRANSACTIONS

The undersigned, on behalf of HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION, hereby certifies that HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION has fully complied with its verification obligations under 2 CFR § 180.320 and hereby further confirms in accordance with 2 CFR § 180.335, that, to its knowledge, the Borrower and its principals (as defined in 2 CFR § 180.995):

(a) Are not presently excluded (as defined in 2 CFR § 180.940) or disqualified (as defined in 2 CFR § 180.935);

(b) Have not within a three (3) year period preceding the Effective Date been convicted of any of the offenses listed in 2 CFR § 180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in 2 CFR § 180.800(a); and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in that certain TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023, between the TIFIA Lender and the Borrower, as the same may be amended from time to time.

Dated: _____

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____
Name:
Title:

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of TIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Section 2 through Section 4 set out the circumstances in which the TIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the TIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the TIFIA Lender under the TIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the TIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the TIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 36 (Notices; Payment Instructions) of the TIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as **Appendix One** To Exhibit D. Supporting documentation should be submitted with the requisition.

All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if such day is not a Business Day, the next succeeding Business Day.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the TIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the TIFIA Loan; or
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid. If a Consulting Engineer is retained as of such date by the Borrower, pursuant to Section 22(d) (*Consulting Engineer*) or otherwise, such documentation shall include invoices for costs incurred or paid and the most recent certificate of or report prepared by an independent engineer relating to the construction of the Project (to the extent not previously delivered to the TIFIA Lender).

The TIFIA Lender shall promptly send to the Borrower, in accordance with Section 36 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement, a notice of any Requisition so

rejected, and the reasons therefor, substantially in the form attached hereto as **Appendix Two** to this **Exhibit D**. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the TIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the TIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the TIFIA Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds if:

(a) an Event of Default or event that, with the giving of notice or the passage of time or both, would constitute an Event of Default under the TIFIA Loan Agreement shall have occurred and be continuing; or

(b) the Borrower:

- (i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or
- (ii) fails to ensure that VDOT has complied with its obligations to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or in accordance with the highest standards of VDOT's industry, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by VDOT with applicable federal or local law pertaining to the Project or with the terms and conditions of the TIFIA Loan Agreement; or
- (iii) fails to observe or comply with any applicable federal or local law, or any term or condition of the TIFIA Loan Agreement; or
- (iv) fails to satisfy any condition set forth in Section 4 (Disbursement Conditions) or Section 12(b) (Conditions Precedent to All Disbursements) of the TIFIA Loan Agreement; or
- (v) fails to deliver documentation satisfactory to the TIFIA Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; provided, that in such case the TIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible

Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

Section 5. Federal Government Shutdown. Notwithstanding anything to the contrary set forth in this **Exhibit D**, the TIFIA Lender (a) shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds and (b) shall have no obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower (even if such disbursement has been approved by the TIFIA Lender), in each case if the TIFIA Lender's ability to make the relevant disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

Build America Bureau

United States Department of Transportation
c/o Director, Office of Credit Programs

Room W12-464
1200 New Jersey Avenue, SE,
Washington, D.C. 20590

Federal Highway Administration
Virginia Division Office
400 North 8th St., Suite 750
Richmond, Virginia 23219-4825
Attn: Division Administrator

Re: HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION
PROJECT (TIFIA - [____])

Ladies and Gentlemen:

Pursuant to Section 4 (Disbursement Conditions) of the TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023 (the “**TIFIA Loan Agreement**”), by and between HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 15, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 15, 20[_____]].
3. The amounts previously disbursed under the TIFIA Loan Agreement equal, in the aggregate, \$[_____]. The amounts previously issued under the Indenture in respect of the Project as of the date of the requested disbursement equal, in the aggregate, \$[_____]. The amounts previously contributed by VDOT in respect of the Project as of the date of the requested disbursement equal, in the aggregate, \$[_____].

4. [The 2023 Project BANs were issued on [insert date] and \$[____], representing the full amount off proceeds of such offering, less \$[____], which was used to [fund reserves and] pay costs of issuance associated therewith) have been expended on Total Project Costs.]
5. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.
6. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan.
7. All documentation evidencing the Eligible Project Costs to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
8. The Borrower has ensured that VDOT has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
9. As demonstrated in the Revised Financial Model most recently delivered to the TIFIA Lender and in the Project Budget, the funds that have been fully and completely committed and allocated to the Borrower by the providers thereof to pay Total Project Costs are sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule and by no later than the Projected Substantial Completion Date.
10. Each of the insurance policies obtained by VDOT in satisfaction of the condition in Section 12(a)(xix) (Conditions Precedent to Effectiveness) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
11. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to the TIFIA Lender and the FHWA Division Office and in accordance with the highest standards of VDOT's industry.
12. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
13. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event that, with the giving of

notice or the passage of time or both, would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.

14. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since [____], 2023 and is continuing.
15. A copy of the monthly construction progress report pursuant to Section 22(b)(i)(*Monthly Construction Progress Report*) of the TIFIA Loan Agreement for the month preceding the date of the applicable Requisition has been delivered to each of the above named addresses.
16. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with the Project, the Federal Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l)(1), to the extent the Federal Government deems appropriate.
17. A copy of this requisition has been delivered to each of the above named addressees.
18. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.

[Add wire instructions for Trustee.]

Date: _____

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____

Name:

Title: _____

APPENDIX TWO TO EXHIBIT D

DISAPPROVAL OF THE TIFIA LENDER (TO BE DELIVERED TO THE BORROWER)

Requisition Number [●] is [approved in part in the amount of \$[●]] [not approved]¹ by the TIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023, by and between Hampton Roads Transportation Accountability Commission (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Any determination, action or failure to act by the TIFIA Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the TIFIA Lender’s sole discretion, and in no event shall the TIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and
through the Executive Director of the Build
America Bureau

By: _____
TIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

¹Attached hereto as Exhibit A are reasons for any partial or full denial of approval.

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D

[INSERT REASONS FOR ANY PARTIAL OR FULL DENIAL OF APPROVAL.]

EXHIBIT E

COMPLIANCE WITH LAWS

The Borrower shall, and shall require VDOT, which shall in turn require that the Construction Contractors and their contractors and subcontractors at all tiers for the Project, to comply in all material respects with any and all applicable federal and state laws. The following list of federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive.

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 CFR Part 35; 29 CFR Part 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*), and USDOT implementing regulations (49 CFR Part 21);
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive Order amending such order, and implementing regulations (29 CFR §§ 1625-27, 1630; 28 CFR Part 35; 41 CFR Part 60; and 49 CFR Part 27);
- (v) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 CFR Part 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), including the environmental mitigation requirements and commitments made by VDOT that result in the FHWA's approval of the NEPA Determination;
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*);
- (ix) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;
- (x) 23 U.S.C. § 138 and 49 U.S.C. § 303, as applicable;
- (xi) The health and safety requirements set forth in 40 U.S.C. §§ 3701-3702 and implementing regulations (29 CFR Part 1926 and 23 CFR § 635.108, as applicable);
- (xii) The prevailing wage requirements set forth in 40 U.S.C. § 3141 *et seq.*, and implementing regulations (29 CFR Part 5), and, as applicable, 23 U.S.C. § 113 and implementing regulations (23 CFR §§ 635.117(f) and 635.118), and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;

- (xiii) The Buy America requirements set forth in 23 U.S.C. § 313 and implementing regulations (23 CFR § 635.410);
- (xiv) The Build America, Buy America Act (Pub. L. No. 117-58, §§ 70901-52);
- (xv) The requirements of 23 U.S.C. § 101 *et seq.* and 23 CFR;
- (xvi) The Cargo Preference Act of 1954, as amended (46 U.S.C. §55305), and implementing regulations (46 CFR Part 381);
- (xvii) The applicable requirements of 49 CFR Part 26 relating to the Disadvantaged Business Enterprise program; and
- (xviii) The requirements of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) and implementing regulations (2 CFR § 200.216).

EXHIBIT F
RESERVED

EXHIBIT G
TIFIA DEBT SERVICE

[To be inserted on Effective Date]

EXHIBIT H-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that: (a) the Borrower is duly created and validly existing under the laws of the jurisdiction of formation; (b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party; (c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action; (d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate any statute, rule, regulation or other law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject; (g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and (h) to our knowledge after reasonable, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that: (a) each of the TIFIA Bond, the Indenture, and the TIFIA Supplemental Indenture has been duly authorized, executed, and delivered by the Borrower in accordance with the Organizational Documents of the Borrower and in compliance with all applicable laws; (b) each of the TIFIA Bond, the Indenture, and the TIFIA Supplemental Indenture is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its respective terms and conditions; (c) the TIFIA Bond is a Subordinate Obligation, secured by the Liens on the Trust Estate, and shall be subordinate to the Lien on the Trust Estate pledged to secure the Senior Obligations and the Intermediate Lien Obligations, and shall be *pari passu* to the Lien on the Trust Estate pledged to secure the Subordinate Obligations and is a Bond entitled to the benefits of a Bond under the Indenture, enforceable under the laws of the State without any further action by the Borrower or any other Person; (d) the Indenture and the TIFIA Supplemental Indenture create the valid and binding assignment and pledge of the Trust Estate to secure the payment of the principal of, interest on, and other amounts payable in respect of, the TIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act; (e) all actions by the Borrower that are required for the use of Pledged Revenues as required under the Indenture, the TIFIA Supplemental Indenture and under the TIFIA Loan Agreement have been duly and lawfully made; (f) the Borrower has complied with the requirements of State law to lawfully pledge the Trust Estate and use the Pledged Revenues as required by the terms of the Indenture, the TIFIA Supplemental Indenture, and the TIFIA Loan Agreement; (g) the Borrower is not eligible to be a debtor in either a voluntary or involuntary case under the United States Bankruptcy Code; and (h) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the TIFIA Loan Agreement or the TIFIA Bond or by the Trustee under the Indenture Documents.

EXHIBIT I
RESERVED

EXHIBIT J

FORM OF CERTIFICATE OF TRUSTEE

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

TIFIA BOND,
SEGMENT 4C PROJECT
(TIFIA – [____])

The undersigned, Wilmington Trust, National Association (the “**Trustee**”), by its duly appointed, qualified and acting Vice President, certifies with respect to the above referenced bond (the “**TIFIA Bond**”) dated as of [____], 2023, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of the United States of America.
2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the TIFIA Bond have been obtained and are in full force and effect.
3. The Indenture and the TIFIA Supplemental Indenture (each as defined herein) pertaining to the issuance of the TIFIA Bond to which the Trustee is a party was executed and the TIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the TIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the TIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“**Trusts**”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.
5. That attached to this Certificate as Annex Two is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today,

and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section 5.3 and Section 15.3 of that certain Indenture (the “**Indenture**”), dated as of February 1, 2018, and the Supplemental Indenture pertaining to the TIFIA Bond (the “**TIFIA Supplemental Indenture**”), dated as of [_____]1, 2023, each between the Hampton Roads Transportation Accountability Commission (the “**Borrower**”) and the Trustee.
7. That receipt is also acknowledged of that certain TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023 (the “**TIFIA Loan Agreement**”), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Bondholder**”).
8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee and of Bond Registrar and Paying Agent for and in respect of the TIFIA Bond as set forth in the Indenture, the TIFIA Supplemental Indenture, and the TIFIA Loan Agreement, including from time to time redeeming all or a portion of the TIFIA Bond as provided in Article IV of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Article XIV of the Indenture.
9. That all funds and accounts for the payment of the TIFIA Bond pursuant to the Indenture and the TIFIA Supplemental Indenture (including, but not limited to, the TIFIA Series 2023 Project Fund; the TIFIA Series 2023 Bond Debt Service Fund, and within such Fund the TIFIA Series 2023 Interest Account, the TIFIA Series 2023 Principal Account, the TIFIA Series 2023 Redemption Account and the TIFIA Revenue Sharing Account; and the TIFIA Series 2023 Bond Debt Service Reserve Fund) have been established as provided in the Indenture and the TIFIA Supplemental Indenture.

[SIGNATURE PAGE FOLLOWS]

Dated: [____], 2023

WILMINGTON TRUST, NATIONAL
ASSOCIATION

By: _____
Its:

ANNEX ONE TO EXHIBIT J

OFFICERS OF TRUSTEE

ANNEX TWO TO EXHIBIT J
RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE

EXHIBIT K-1

FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023 (the "TIFIA Loan Agreement"), by and among the Hampton Roads Transportation Accountability Commission (the "Borrower") and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

Pursuant to Section 12(a)(v) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the undersigned, Executive Director, as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 12(a)(v) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit A** is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed a Borrower's Authorized Representative in accordance with Section 26 (*Borrower's Authorized Representative*) of the TIFIA Loan Agreement;
- (b) pursuant to Section 12(a)(ii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit B** are certified, complete, and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived;
- (c) pursuant to Section 12(a)(iv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit C** is a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Federal Government contracts, procurement and non-procurement matters substantially in the form attached to the TIFIA Loan Agreement as Exhibit C with respect to the Borrower and its principals (as defined in 2 CFR § 180.995);
- (d) pursuant to Section 12(a)(vi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that it is in compliance with the verification

requirements set forth in 2 CFR §§ 180.300 and 180.320 and with its obligations under 2 CFR § 180.330;

- (e) pursuant to Section 12(a)(vii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that:
 - (i) With respect to the Project, the Borrower has complied with NEPA and has delivered to the TIFIA Lender a copy of the NEPA Determination; and
 - (ii) The Borrower has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
- (f) pursuant to Section 12(a)(vii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit D** is a certificate from VDOT evidencing VDOT's compliance with its obligations under each Principal Project Contract, including the following:
 - (i) VDOT has complied with (A) the disclosure requirements set forth in 2 CFR § 180.355, (B) the verification requirements set forth in 2 CFR §§ 180.300 and 180.320, and (C) its obligations under 2 CFR § 180.330 with respect to the Construction Contracts;
 - (ii) All Governmental Approvals necessary to commence construction of the Project have been obtained and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation);
 - (iii) With respect to the Project, VDOT has complied with NEPA;
 - (iv) VDOT has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
 - (v) VDOT and each applicable Principal Project Party, as and if applicable, have obtained insurance with respect to the Project, which meets the requirements of Section 15(e) (*Compliance with Principal Project Contracts*); and
 - (vi) Each performance security instrument delivered to or by VDOT pursuant to any Principal Project Contract as of the Effective Date is (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect;
- (g) pursuant to Section 12(a)(viii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit E** is evidence that the Project has been included in (A) the metropolitan transportation improvement program adopted by the Hampton Roads Transportation Planning Organization, (B) the State transportation plan, and (C) the State transportation improvement program approved by the USDOT or its designated agency, in

each case to the extent required by 23 U.S.C. §§ 134 and 135, and 23 U.S.C. § 602(a)(3), as applicable; and the financial plan for each such program or plan shall reflect the costs of, and the sources of funding for, the Project;

- (h) pursuant to Section 12(a)(ix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit F** is evidence of the assignment by at least two (2) Rating Agencies of public ratings of not less than 'A-' or 'A3' to the TIFIA Loan and to the Existing Indebtedness, and no such rating has been reduced, withdrawn or suspended as of the Effective Date;
- (i) pursuant to Section 12(a)(x) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower has demonstrated that as of the Effective Date the funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been fully and completely committed and allocated to the Borrower by the providers thereof, or, in the case of HRTF Revenues, are reasonably anticipated to be available, and that such funds will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule and in any event on or prior to the Projected Substantial Completion Date;
- (j) pursuant to Section 12(a)(xi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower has delivered to the TIFIA Lender certified, complete, and fully executed copies of each Principal Project Contract, together with any amendments, waivers or modifications thereto and any related performance security instruments, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender;
- (k) pursuant to Section 12(a)(xii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower has delivered a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model (A) demonstrates that projected Pledged Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrates a Total Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 2.20, and (C) is otherwise in form and substance acceptable to the TIFIA Lender;
- (l) pursuant to Section 12(a)(xiii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit H** is evidence that the Borrower (A) is authorized, pursuant to Section 33.2-1920, as amended, Code of Virginia of 1950, to pledge, assign, and grant the Liens on the Trust Estate purported to be pledged, assigned, and granted pursuant to the Indenture Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (B) has recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Trustee's Lien on the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Indenture Documents and required by applicable law, and (C) has paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of

any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing;

- (m) pursuant to Section 12(a)(xvi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 47-1742163, (ii) the Borrower's Unique Entity Identifier number is [____], and (iii) the Borrower has registered with, and obtained confirmation of active registration status with no active exclusions listed in such registration from, the federal System for Award Management (www.SAM.gov), and attached hereto as **Exhibit I** is evidence of (iii);
- (n) pursuant to Section 12(a)(xvii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit J** is evidence that the Borrower is duly created and validly existing under the laws of the Commonwealth and a certified copy of the Borrower's Organizational Documents;
- (o) pursuant to Section 12(a)(xvii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit K** is a certified copy of the resolutions authorizing the execution of this Agreement, the TIFIA Supplemental Indenture, and the TIFIA Bond and the issuance of the TIFIA Bond;
- (p) pursuant to Section 12(a)(xix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (q) pursuant to Section 12(a)(xx) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that, as of the Effective Date, (i) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs; and
- (r) pursuant to Section 12(a)(xxii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit L** is a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form as Exhibit N to the TIFIA Loan Agreement in accordance with 49 CFR §20.100(b).
- (s) [pursuant to Section 12(a)(xxiii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as **Exhibit M** are forms of the 2023 Project BANs

Supplemental Indenture, the 2023 Project BANs Bond, and any other documents required to issue the 2023 Project BANs on the 2023 Project BANs Closing Date, each in the form and substance satisfactory to the TIFIA Lender.]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____

Name:

Title: Authorized Representative

EXHIBIT B TO EXHIBIT K-1

INCUMBENCY CERTIFICATE

The undersigned certifies that he is the Chair of the Hampton Roads Transportation Accountability Commission, a body politic and a political subdivision created under the laws of the Commonwealth of Virginia (the “Borrower”), and as such he is authorized to execute this certificate and further certifies that the following person has been elected or appointed, is qualified, and is now acting as an officer or authorized person of the Borrower in the capacity indicated below, and that the signature set forth opposite his name is a true and genuine signature. He further certifies that any of the officer or authorized person listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents and/or the Indenture Documents as the Borrower’s Authorized Representative (each as defined in that certain TIFIA Loan Agreement (Segment 4C), dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

Name	Title	Signature
Kevin B. Page	Executive Director	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of _____, 2023.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____
Name: Donnie R. Tuck
Title: Chair

[EXHIBIT K-2]

**FORM OF BORROWER'S 2023 PROJECT BANs CLOSING DATE BORROWER'S
AUTHORIZED REPRESENTATIVE'S CERTIFICATE**

Reference is made to that certain TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023 (the "TIFIA Loan Agreement"), by and among the Hampton Roads Transportation Accountability Commission (the "Borrower") and the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, [____], as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 12(c)(i) of the TIFIA Loan Agreement, (i) the 2023 Project BANs have been approved by the Borrower and issued in accordance with the Indenture and 2023 Project BANs Supplemental Indenture, (ii) each of the conditions contained in the Indenture and the 2023 Project BANs Supplemental Indenture to the closing of the transactions contemplated thereby has been satisfied or waived with the consent of the TIFIA Lender, and (iii) 2023 Project BANs proceeds have been delivered to the Borrower;
- (b) pursuant to Section 12(c)(ii) of the TIFIA Loan Agreement, except for amendments effectuated pursuant to the terms of the 2023 Project BANs Supplemental Indenture, the Indenture shall remain in full force and effect, without any amendments thereto;
- (c) pursuant to Section 12(c)(iii) of the TIFIA Loan Agreement, attached hereto as **Exhibit A** are true, correct and complete copies of each of the Indenture, the 2023 Project BANs Supplemental Indenture, and the 2023 Project BANs Bond, executed by each of the parties thereto, in full force and effect, and in the form provided by the Borrower, with only such changes as are acceptable to the TIFIA Lender;
- (d) pursuant to Section 12(c)(iv) of the TIFIA Loan Agreement, [attached hereto as **Exhibit B** is a complete and fully executed copy of each other amendment, waiver or modification to any Principal Project Contract not delivered on the Effective Date, each of which is in full force and effect][there have been no amendments, waivers or modifications to any Principal Project Contract since the Effective Date];
- (e) pursuant to Section 12(c)(v), the Borrower has delivered the legal opinions of counsel to the Borrower and bond counsel to the Borrower to the TIFIA Lender;
- (f) pursuant to Section 12(c)(vi) of the TIFIA Loan Agreement, the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement (including Section 13 thereof) and in each other Related Document are true, correct and complete on and as of the 2023 Project BANs Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties were true, correct and complete as of such earlier date); and

- (g) pursuant to Section 12(c)(viii) of the TIFIA Loan Agreement, none of the ratings provided by the Borrower to the TIFIA Lender in satisfaction of the condition precedent specified in Section 12(a)(ix) of the TIFIA Loan Agreement as of the Effective Date has been reduced, withdrawn or suspended.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____

Name:

Title: Authorized Representative

EXHIBIT B TO EXHIBIT K-2

INCUMBENCY CERTIFICATE

The undersigned certifies that he is the Chair of the Hampton Roads Transportation Accountability Commission, a body politic and a political subdivision created under the laws of the Commonwealth of Virginia (the “Borrower”), and as such he is authorized to execute this certificate and further certifies that the following person has been elected or appointed, is qualified, and is now acting as an officer or authorized person of the Borrower in the capacity indicated below, and that the signature set forth opposite his name is a true and genuine signature. He further certifies that the officer or authorized person listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents and/or the Indenture Documents as the Borrower’s Authorized Representative (each as defined in that certain TIFIA Loan Agreement (Segment 4C), dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

Name	Title	Signature
Kevin B. Page	Executive Director	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of _____, 2023.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____
Name: Donnie R. Tuck
Title: Chair

EXHIBIT L

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Build America Bureau

United States Department of Transportation

Room W12-464

1200 New Jersey Avenue, SE

Washington, D.C. 20590

Attention: Director, Office of Credit Programs

Project: Hampton Roads Transportation Accountability Commission Project (TIFIA – [_____])

Dear Director:

This Notice is provided pursuant to Section 15(f)(i)(A) (*Substantial Completion*) of that certain TIFIA Loan Agreement (Segment 4C) (the “TIFIA Loan Agreement”), dated as of [____], 2023, by and between the Hampton Roads Transportation Accountability Commission (the “**Borrower**”) and the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the TIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the TIFIA Lender that:

- (a) on *[insert date Substantial Completion requirements were satisfied]*, the Project satisfied each of the requirements for Substantial Completion set forth in the Construction-Related Contracts. and the SPA;
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and

- (c) Substantial Completion, as defined in the TIFIA Loan Agreement, has been achieved.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

Name:

Title:

EXHIBIT M

TIFIA LOAN REAMORTIZATION METHODOLOGY

The amount of principal with respect to the TIFIA Loan to be paid on July 1 of each year is calculated by multiplying the percentages (set out in the Table below) by the Outstanding TIFIA Loan Balance on such Payment Date. Any rounding differences will be applied to the last principal payment.

<u>Year</u>	<u>Percentage</u>
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	%
	100.0000%

EXHIBIT N

CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF APPROPRIATED FUNDS FOR LOBBYING

Reference is made to that certain TIFIA Loan Agreement (Segment 4C), dated as of [____], 2023 (the “TIFIA Loan Agreement”), by and among the Hampton Roads Transportation Accountability Commission (the “Borrower”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement. The undersigned, on behalf of the Hampton Roads Transportation Accountability Commission, hereby certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of the TIFIA Loan.

(b) If any funds other than proceeds of the TIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the TIFIA Loan, the Borrower shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the TIFIA Lender entered into the TIFIA Loan Agreement. Submission of this certification is a prerequisite to the effectiveness of the TIFIA Loan Agreement imposed by Section 1352 of title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: _____

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Name:
Title:

EXHIBIT O

SECTIONS 8.1(b) AND 8.5(b) OF THE INDENTURE (AMENDED AS OF THE EFFECTIVE DATE)

Section 8.1(b) of the Indenture:

(b) At least once each month, not later than the last Business Day of each month, HRTAC shall make transfers from the Revenue Fund in the amounts and in the order of priority set forth below:

FIRST: To each Senior Debt Service Fund ratably, the amount, if any, required under the Related Series Supplement so that the balance therein on the next Payment Date shall equal the amount of principal, if any, and interest due on the next Payment Date on the Related Series of Bonds; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Senior Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SECOND: To each Senior Debt Service Reserve Fund, ratably, the amount, if any, required so that the balance in each such Fund shall be equal to the respective Senior Debt Service Reserve Requirement;

THIRD: To each Intermediate Lien Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Intermediate Lien Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in an Intermediate Lien Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

FOURTH: To each Intermediate Lien Debt Service Reserve Fund, ratably, the amount, if any, so that the balance in such Fund shall be equal to the respective Intermediate Lien Debt Service Reserve Requirement;

FIFTH: To each Subordinate Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Subordinate Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Subordinate Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SIXTH: To each Subordinate Debt Service Reserve Fund, ratably, the amount, if any, so that the balance in such Fund shall be equal to the respective Subordinate Debt Service Reserve Requirement;

SEVENTH: To each Rebate Fund the amounts necessary to provide for the payment of any Rebate Amounts with respect to the Related Series of Bonds as confirmed in an Officer's Certificate;

EIGHTH: To the Operating Account of the Operating Fund, the amount of funds necessary to pay Operating Expenses during such period in accordance with the Annual Budget;

NINTH: To the Operating Reserve Account of the Operating Fund, the amount, if any, so that the balance in such Account shall be equal to the Operating Reserve Requirement;

TENTH: To fund any Hedging Termination Obligation in connection with a Qualified Hedge; and

ELEVENTH: To the General Fund, the balance remaining in the Revenue Fund.

Section 8.5(b) of the Indenture:

(b) HRTAC shall apply the balance in the General Fund, including interest earnings, as follows:

FIRST: To cure any deficiency in the amount required to be on deposit in any Senior Debt Service Fund, any Senior Debt Service Reserve Fund, any Intermediate Lien Debt Service Fund, any Intermediate Lien Debt Service Reserve Fund, any Subordinate Debt Service Fund, any Subordinate Debt Service Reserve Fund, any Rebate Fund, or the Operating Reserve Account, in that order;

SECOND: To make HRTF Transfer(s);

THIRD: To pay any Bond Credit Provider or DSRF Credit Provider any Excess Interest owed due to a drawing on any applicable Bond Credit Facility or DSRF Credit Facility or any additional interest, fees, fines or other penalties owed as a result of a default on any applicable Bond Credit Facility or DSRF Credit Facility;

FOURTH: To the payment of expenditures for capital improvements with respect to any Project;

FIFTH: For deposit into the TIFIA Revenue Sharing Account, an amount equal to Excess Revenues for such month as may be required under Section 6.1 of the Fifth Supplemental Indenture of Trust dated as of September 1, 2021 and Section 6.1 of the Seventh Supplemental Indenture of Trust dated as of [____], 2023, and the applicable provisions of any other Series Supplement; and

SIXTH: To any other lawful purpose approved by resolution of HRTAC.

EXHIBIT P

2 CFR Part 170

I. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph (d) below, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph (e) below).

2. *Where and when to report.*

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph (a)(1) above to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total Federal funding authorized to date under this TIFIA Loan equals or exceeds \$30,000 as defined in 2 CFR § 170.320;

ii. In the preceding fiscal year, you received—

(A) eighty percent (80%) or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards), and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph (b)(1) above:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month of the Effective Date, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph (d) below, for each first-tier non-Federal entity subrecipient under this TIFIA Loan, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. In the subrecipient's preceding fiscal year, the subrecipient received—

(A) eighty percent (80%) or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards) and,

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph (c)(1) above:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions.* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

1. Subawards, and

2. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this **Exhibit P**:

1. *Federal Agency* means a Federal agency as defined at 5 U.S.C. § 551(1) and further clarified by 5 U.S.C. § 552(f).

2. *Non-Federal entity* means all of the following, as defined in 2 CFR Part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and,

iv. A domestic or foreign for-profit organization

3. *Executive* means officers, managing partners, or any other employees in management positions.

4. *Subaward*:

i. This term means a legal instrument to provide support for the performance of any portion of the Project and that you as the Borrower award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the Project (for further explanation, see 2 CFR § 200.331).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this TIFIA Loan; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)).

DIRECT AGREEMENT (VDOT)

This **DIRECT AGREEMENT** (this “**Agreement**”) dated as of [____], 2023 (the “**Effective Date**”), is made by and among the (i) VIRGINIA DEPARTMENT OF TRANSPORTATION, an agency of the Commonwealth of Virginia (“**VDOT**”); (ii) HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION, a body politic and a political subdivision created under the laws of the Commonwealth of Virginia (the “**Borrower**”); and (iii) UNITED STATES DEPARTMENT OF TRANSPORTATION, an agency of the United States, acting by and through the Executive Director of the Build America Bureau (“**USDOT**” or the “**TIFIA Lender**”).

RECITALS

WHEREAS:

(1) VDOT and HRTAC have entered into that certain Standard Project Agreement for Funding and Administration for the Segment 4C (Full Build Potential Scope) Project related to the Express Lanes Network, dated as of December 16, 2021, as it may be modified or amended from time to time in accordance with its terms (the “**Segment 4C SPA**”), relating to the Project (as defined in the Segment 4C TIFIA Loan Agreement (as defined below));

(2) VDOT has entered into that certain Commonwealth of Virginia Department of Transportation Bid Proposal and Contract (Contract ID. No.: C00117841DB111), dated as of July 25, 2022, with Shirley-Branch Joint Venture (the “**Design-Builder**”), an [unincorporated] joint venture comprised of Shirley Contracting Company, LLC, the Branch Group, the Dewberry Companies, Inc., McLean Contracting Company, and STV Incorporated, as it may be modified or amended from time to time in accordance with its terms (the “**Design-Build Contract**”);

(3) VDOT, the Borrower, and the Commonwealth Transportation Board have entered into that certain Master Agreement for Development and Tolling of the Express Lanes Network, dated August 18, 2020, as it may be modified or amended from time to time in accordance with its terms (the “**MTA**”);

(4) VDOT has entered into that certain Standard Contract for VDOT I-64 Express Lanes Toll System and Services (the “**Segment 1 Toll System Contract**”), dated as of March 21, 2017, with TransCore, LP (the “**Segment 1 Toll System Contractor**”), as it may be modified or amended from time to time in accordance with its terms; and

(5) VDOT has entered into that certain Standard Contract Relating to the I-64 Express Lanes Expansion, dated as of June 17, 2021 (the “**Segment 2 Toll System Contract**” and, together with the Segment 1 Toll System Contract and any similar contract for the provision of the Tolling Infrastructure and System or Tolling O&M Duties entered into by VDOT with respect to any segment of the Express Lanes Network, the “**Toll System Contracts**”), with Conduent State & Local Solutions, Inc. (the “**Segment 2 Toll System Contractor**” and, together with the Segment 1 Toll System Contractor and the contractor pursuant to any other Toll System Contract, the “**Toll**

System Contractors”), as it may be modified or amended from time to time in accordance with its terms.

The foregoing agreements in paragraphs (1) through (5) above, together with any Electronic Toll Collection Agreement, Violation Processing Services Agreement and any other agreement entered into from time to time by VDOT and the Borrower that is treated as an Additional Project Contract pursuant to the Segment 4C TIFIA Loan Agreement (as defined below) are herein collectively referred to as the “**VDOT Agreements**” (and each, individually, is a “**VDOT Agreement**”).

WHEREAS, in reliance on the support for the Project provided by VDOT pursuant to the VDOT Agreements, the Borrower and the TIFIA Lender are entering into that certain TIFIA Loan Agreement, dated as of the date hereof, pursuant to which the TIFIA Lender will (subject to the terms and conditions of the loan agreement) make a loan in a principal amount not to exceed \$[142,905,000] (excluding interest that is capitalized), which loan shall be repaid from sales tax revenues dedicated to the Hampton Roads Transportation Fund (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Segment 4C TIFIA Loan Agreement**”).

The Segment 4C TIFIA Loan Agreement is being entered into for the purpose of financing certain costs in connection with the construction and development of the Project.

WHEREAS, the Borrower has entered into that certain Master Indenture of Trust (the “**HRTF Indenture**”), dated as of February 1, 2018, with Wilmington Trust, National Association (the “**Trustee**”), as such indenture may be modified or amended from time to time in accordance with its terms.

WHEREAS, the Borrower has entered into that certain Master Indenture of Trust (the “**Toll Indenture**”), dated as of September 1, 2021, with Wilmington Trust, National Association (the “**Toll Trustee**”), as such indenture may be modified or amended from time to time in accordance with its terms.

WHEREAS, in consideration for the TIFIA Lender’s willingness to enter into the Segment 4C TIFIA Loan Agreement, among other consideration, VDOT and the Borrower wish to amend and clarify certain provisions of the VDOT Agreements as set forth in this Agreement.

WHEREAS, it is a condition to the consummation of the transactions contemplated by the Segment 4C TIFIA Loan Agreement that VDOT and the Borrower enter into this Agreement with the TIFIA Lender to provide certain assurances and agreements, as further described below, in connection with the VDOT Agreements and the transactions contemplated thereby.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, VDOT, the Borrower, and the TIFIA Lender (each, a “**Party**” and, collectively, the “**Parties**”) hereby agree as follows:

ARTICLE I

DEFINED TERMS; INTERPRETATION

Section 1.1 Capitalized Terms.

(a) Except as provided in Section 1.1(b), all capitalized terms not defined herein shall have the meanings given to them in the Segment 4C TIFIA Loan Agreement.

(b) All capitalized terms used in Article VI (*VDOT Agreement Modifications and Clarifications*) (other than Section 6.4 (*Agreements Relating to Toll System Contracts*)) shall have the meanings given to them in the applicable VDOT Agreement.

Section 1.2 Defined Terms. The following terms shall have the meanings specified below.

"2021 TIFIA Loan Agreements" means:

(a) that certain TIFIA Loan Agreement (the "HRBT Toll TIFIA Loan Agreement"), dated as of the September 21, 2021, between the Borrower and the TIFIA Lender providing for a loan in a principal amount not to exceed \$345,000,000 (excluding interest that is capitalized), which loan shall be repaid from toll revenues collected by or on behalf of the Borrower (as amended, amended and restated, supplemented or otherwise modified from time to time), and

(b) that certain TIFIA Loan Agreement (the "HRBT HRTF TIFIA Loan Agreement"), dated as of September 21, 2021, between the Borrower and the TIFIA Lender providing for a loan in a principal amount not to exceed \$817,990,000 (excluding interest that is capitalized), which loan shall be repaid from sales tax revenues dedicated to the Hampton Roads Transportation Fund (as amended, amended and restated, supplemented or otherwise modified from time to time).

"Electronic Toll Collection Agreement" means any Electronic Toll Collection Agreement entered into between the Borrower and VDOT.

"Express Lanes Network" has the meaning set forth in the MTA.

"Permitted Liens" means:

- (a) Liens imposed pursuant to the Segment 4C TIFIA Loan Agreement;
- (b) Liens imposed by law for taxes that are not yet due or are being contested;
- (c) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested;

(d) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance, and other social security laws or regulations;

(e) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(f) judgment Liens in respect of judgments that do not constitute an Event of Default under the Segment 4C TIFIA Loan Agreement;

(g) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower;

(h) any Lien on any property or asset of the Borrower existing on the Effective Date; provided that (i) such Lien shall not apply to any other property or asset of the Borrower and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(i) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition, (ii) such Lien shall apply solely to the acquired asset and not to any other property or assets of the Borrower, and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(j) purchase money security interests in equipment hereafter acquired by the Borrower; provided that (i) such security interests secure indebtedness for borrowed money permitted under the Segment 4C TIFIA Loan Agreement, (ii) such security interests are incurred, and the indebtedness secured thereby is created, within ninety (90) days after such acquisition, (iii) the indebtedness secured thereby does not exceed the fair market value of such equipment at the time of such acquisition, and (iv) such security interests do not apply to any other property or assets (other than accessions to such equipment) of the Borrower.

"TIFIA Loan" means the TIFIA loan provided under the Segment 4C TIFIA Loan Agreement.

"Violation Processing Services Agreement" means any Violation Processing Services Agreement entered into between the Borrower and VDOT.

Section 1.3 Interpretation. Unless the context shall otherwise require, the words "hereto", "herein", "hereof", and other words of similar import refer to this Agreement as a whole. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." Whenever VDOT's knowledge is implicated in this Agreement or the phrase "to VDOT's knowledge" or a similar phrase is used in this Agreement, VDOT's knowledge or such phrase(s) shall be interpreted to mean to the best of VDOT's knowledge after reasonable and diligent inquiry and investigation. Unless the context

shall otherwise require, references to any Person shall be deemed to include such Person's successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 9.1 and signed by a duly authorized representative of such party.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.1 Conditions Precedent. Notwithstanding anything herein to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied:

(a) Legal Opinion. Legal counsel to VDOT shall have delivered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on Exhibit A).

(b) Non-Debarment Certificate. VDOT shall have provided a certificate from VDOT's Authorized Representative (as defined below) as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as Exhibit B with respect to VDOT and its principals (as defined in 2 CFR § 180.995).

(c) Certification Regarding Lobbying. VDOT shall have provided a certificate from VDOT's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as Exhibit C in accordance with 49 CFR §20.100(b).

(d) Officer's Certificate. VDOT shall have delivered to the TIFIA Lender a certificate from VDOT's Authorized Representative in the form attached hereto as Exhibit D (i) as to the satisfaction of certain conditions precedent set forth in this Article II as required by the TIFIA Lender, (ii) designating VDOT's Authorized Representative, and (iii) confirming such person's position and incumbency.

(e) Organizational Documents. VDOT shall have provided to the TIFIA Lender evidence that VDOT is duly created and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by VDOT's Authorized Representative: (i) a copy of all resolutions not previously delivered to the TIFIA Lender in connection with the 2021 TIFIA Loan Agreements that authorize VDOT to execute and deliver, and to perform its respective obligations under, the VDOT Agreements in effect as of the Effective Date, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by VDOT relating to the matters described therein, (ii) a copy of any modifications, rescissions or amendments to any of the resolutions previously delivered to the TIFIA Lender in connection with the 2021 TIFIA Loan Agreements, and (iii) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the VDOT Agreements in effect as of the Effective Date.

(f) Insurance Certificates. VDOT shall have delivered to the TIFIA Lender copies of certificates of insurance evidencing the property damage and liability insurance policies maintained by VDOT and by each of the Principal Project Parties (other than Conduent State and Local Solutions, Inc. and TransCore, LP) as of the date of this Agreement.

(g) Accuracy of Representations and Warranties. The representations and warranties of VDOT set forth in this Agreement and in each other VDOT Agreement shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(h) Other Requested Documentation. VDOT shall have delivered such other agreements, documents, instruments, opinions and other items reasonably required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender.

ARTICLE III

VDOT ACKNOWLEDGMENTS AND UNDERTAKINGS; **NO LIABILITY FOR TIFIA LOAN**

Section 3.1 Acknowledgement of Pledge and Assignment. VDOT acknowledges the pledge and assignment to each Trustee of, and the grant to such Trustee of a lien on and security interest in, all of the Borrower's right, title and interest in, to and under the trust estate established pursuant to the HRTF Indenture, pursuant to the terms and conditions of the HRTF Indenture, as security for all of the obligations secured or purported to be secured by the HRTF Indenture.

Section 3.2 Sovereign Immunity. VDOT specifically, and the Commonwealth of Virginia generally, neither waive nor abrogate their sovereign immunity, in part or in whole, in any manner, under any theory, hereunder. Notwithstanding the foregoing, VDOT acknowledges and agrees that this Agreement and the VDOT Agreements in effect from time to time constitute

legal, valid, and binding obligations of VDOT, enforceable against VDOT in accordance with their terms, except as enforceability may be limited or otherwise affected by (a) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (b) principles of equity, whether considered at law or in equity, and (c) the sovereign immunity of the Commonwealth of Virginia; provided that sovereign immunity shall not bar an action to enforce a claim based on a breach of this Agreement or the VDOT Agreements in effect from time to time presented in accordance with the laws of the Commonwealth of Virginia.

Section 3.3 Reserve Funds. VDOT acknowledges and agrees that each of the Senior Lien Obligations Reserve Fund, the Second Lien Obligations Reserve Fund, the Subordinate Obligations Reserve Fund, the Operation and Maintenance Reserve Fund, and the Major Maintenance and Renewal Fund, including any accounts and sub-accounts under any of the foregoing, shall be deemed a “reserve,” as such term is used in Section 6.03(a)(ii) of the MTA.

Section 3.4 Insurance. VDOT understands and acknowledges that VDOT’s failure to, and failure to cause its contractors to, at all times, maintain with responsible insurers, to the extent available from responsible insurers at reasonable rates, or through a program of self-insurance (or a combination thereof), all such insurance on the Project that is required under the VDOT Agreements in effect from time to time, subject to the cure provisions of the Segment 4C TIFIA Loan Agreement, constitutes an Event of Default under the Segment 4C TIFIA Loan Agreement.

Section 3.5 Cooperation. VDOT shall fully cooperate with the TIFIA Lender and perform all additional acts reasonably requested by the TIFIA Lender to effect the purposes of this Agreement. VDOT and the Borrower agree that each of them shall take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the TIFIA Lender may reasonably request to effectuate the terms of this Agreement.

Section 3.6 No Liability for TIFIA Loan. Nothing in this Agreement shall be construed to mean that VDOT is liable under the Segment 4C TIFIA Loan Agreement for the debt of the Borrower thereunder.

Section 3.7 [Reserved.]

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of VDOT. VDOT hereby represents and warrants as of the date of execution of this Agreement and as of each date on which any disbursement under Segment 4C TIFIA Loan Agreement is made:

(a) Organization; Power and Authority. VDOT is an agency of the State, duly created and validly existing and in good standing under the laws of the State, has full legal right, power and authority to enter into or become a signatory to this Agreement and the VDOT

Agreements in effect as of any date on which this representation and warranty is made and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery, and performance of this Agreement and the VDOT Agreements in effect as of any date on which this representation and warranty is made.

(b) VDOT's Officers' Authorization. The officers of VDOT executing (or that previously executed) this Agreement and the VDOT Agreements in effect as of the Effective Date, and any certifications or instruments related thereto, are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of this Agreement and each of the VDOT Agreements in effect as of any date on which this representation and warranty is made, has been duly authorized, executed and delivered by VDOT and constitutes the legal, valid, and binding agreement of VDOT enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law); provided that all payments from VDOT under each such VDOT Agreement (other than any liquidated damages or other damages and recoveries payable by a third party contractor thereunder) are subject to appropriation by the Virginia General Assembly and allocation by the Commonwealth Transportation Board.

(d) Non-Contravention. The execution and delivery of this Agreement and the VDOT Agreements in effect as of any date on which this representation and warranty is made, the consummation of the transactions contemplated herein and therein and the fulfillment of or compliance with the terms and conditions hereof and thereof will not (i) conflict with VDOT's Organizational Documents or (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by VDOT of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which VDOT is a party and/or signatory or by which it or its properties or assets are otherwise subject or bound.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of VDOT or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by VDOT of this Agreement and the VDOT Agreements then in effect, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by this Agreement or the VDOT Agreements then in effect or (B) the fulfillment of or compliance by VDOT with the terms and conditions of this Agreement and the VDOT Agreements then in effect, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, there is no action, suit, proceeding or, to the knowledge of VDOT, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of VDOT, threatened against or affecting the Project or the ability of VDOT to execute, deliver and perform its obligations under this Agreement or the VDOT Agreements then in effect. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of VDOT, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of VDOT, threatened against or affecting the Project, VDOT or the assets, properties or operations of VDOT, that in any case could reasonably be expected to result in a Material Adverse Effect. To VDOT's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to result in a Material Adverse Effect. VDOT is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) No Debarment. VDOT has fully complied with its verification obligations under 2 CFR § 180.320 and confirms that, to its knowledge, neither VDOT nor any of its principals (as defined in 2 CFR § 180.995) is debarred, suspended, or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 2.1(b). VDOT has complied with the disclosure requirements set forth in 2 CFR § 180.355. Further, VDOT has fully complied with 2 CFR Part 180, including Subpart C, in particular §§ 180.300 and 180.330, and with 2 CFR § 1200.332. VDOT is not aware of any non-compliance by any Principal Project Party or any of VDOT's other contractors or subcontractors performing work related to the Project with the applicable requirements of 2 CFR Part 180.

(h) Accuracy of Representations and Warranties. The representations, warranties and certifications of VDOT set forth in this Agreement and in each VDOT Agreement in effect as of any date on which this representation and warranty is made are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(i) Compliance with Federal Requirements. With respect to the Project, VDOT has complied with all applicable requirements of NEPA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.).

(j) No Defaults. VDOT is not in default under the terms of this Agreement or any VDOT Agreement in effect as of any date on which this representation and warranty is made, and no event has occurred or condition exists that, with the giving of notice or the passage of time or both, would constitute an event of default under this Agreement or any VDOT Agreement in effect as of any date on which this representation and warranty is made. To VDOT's knowledge,

no other party to a VDOT Agreement is in breach of, or in default under, any material term of such VDOT Agreement.

(k) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion of the Project and for the operation and management thereof have been obtained or effected by VDOT and are in full force and effect, and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(l) VDOT Agreements. Each VDOT Agreement in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each VDOT Agreement have been satisfied. VDOT or the Borrower has delivered to the TIFIA Lender (i) as of the Effective Date, a fully executed, complete, and correct copy of each such VDOT Agreement in effect as of the Effective Date and (ii) as of any other date on which this representation and warranty is made, a fully executed, complete, and correct copy of each such VDOT Agreement entered into after the Effective Date and prior to such other date, including, in each case in clauses (i) and (ii), (A) all exhibits, schedules and other attachments, (B) any amendments or modifications thereto and (C) any related credit support instruments or side letters. No event has occurred that gives VDOT or, to the knowledge of VDOT, any counterparty thereto the right to terminate any VDOT Agreement.

(m) Information. The information furnished by VDOT to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of VDOT.

(n) OFAC; Anti-Corruption Laws.

(i) Neither VDOT nor, to VDOT's knowledge, any other party to a VDOT Agreement is a Sanctioned Person.

(ii) Neither VDOT nor, to VDOT's knowledge, any other party to a VDOT Agreement is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws; or (D) any applicable anti-drug trafficking or anti-terrorism, civil or criminal.

(iii) There are no pending or, to the knowledge of VDOT, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, VDOT or, to VDOT's knowledge, any other party to a VDOT Agreement, in each case with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(iv) No use of proceeds of the TIFIA Loan or other transaction contemplated by this Agreement or any VDOT Agreement will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws

(o) Compliance with Law. VDOT is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the Project in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 4.1(p) below), including those set forth on Exhibit E to the Segment 4C TIFIA Loan Agreement, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by VDOT or, to the knowledge of VDOT and solely in respect of the Project or any VDOT Agreement, any other party to such VDOT Agreement, other than, in each case, notices of violations that are immaterial.

(p) Environmental Matters. VDOT and, to the knowledge of VDOT, each Principal Project Party is in compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice “Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects,” 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> (“**Environmental Laws**”). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. VDOT has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that VDOT or any other party to a VDOT Agreement is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to VDOT’s knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by VDOT or any other party to a VDOT Agreement with any such Environmental Law or Governmental Approval.

(q) Sufficient Rights and Utilities. VDOT possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real and personal property relating to the Project, in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the Project. The VDOT Agreements in effect and the Governmental Approvals that have been obtained and are in full force and effect create rights in VDOT sufficient to enable VDOT to own, construct, operate, maintain and repair the Project and to perform its obligations under each of the VDOT Agreements to which it is a party. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(r) Insurance. VDOT is in compliance with all insurance obligations under, and maintains or causes to be maintained at all times and with reasonable insurers all insurance required by, each of the VDOT Agreements in effect as of any date on which this representation and warranty is made. To VDOT's knowledge, each Principal Project Party that is party to a VDOT Agreement is in compliance with all insurance obligations under, and maintains or causes to be maintained at all times and with reasonable insurers all insurance required by, the applicable VDOT Agreement.

(s) No Liens. Except for Permitted Liens, VDOT has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Project, the Express Lanes Network, the properties or assets in relation to the Project or the Express Lanes Network. Except for Permitted Liens described in clause (a) of the definition thereof, there are no Liens on the toll revenues to be produced from the operation of the Project or the Express Lanes Network.

(t) Intellectual Property. VDOT owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature, in each case, necessary for the Project, the Express Lanes Network, and the operation of its business. To VDOT's knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available "off-the-shelf" software, to VDOT's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project or the Express Lanes Network infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(u) Investment Company Act. VDOT is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not "controlled" by a company required to register as an "investment company" under the Investment Company Act of 1940, as amended.

(v) Taxes. VDOT is not required to file tax returns with any Governmental Authority.

(w) ERISA. Neither VDOT nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(x) Patriot Act. VDOT is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

Section 4.2 Representations and Warranties of the TIFIA Lender. The TIFIA Lender hereby makes the following representations and warranties as of the Effective Date:

(a) The TIFIA Lender has all requisite power and authority to perform all transactions contemplated by this Agreement.

(b) This Agreement has been duly authorized, executed and delivered by the TIFIA Lender, and is a legally valid and binding agreement of the TIFIA Lender, enforceable in accordance with its terms.

(c) The officer of the TIFIA Lender executing this Agreement is duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

ARTICLE V

VDOT PROJECT-RELATED COVENANTS

Section 5.1 VDOT Affirmative Covenants related to Segment 4C TIFIA Loan Agreement. VDOT covenants and agrees as follows until the date the TIFIA Loan and the obligations of the Borrower under the Segment 4C TIFIA Loan Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Copies of Documents. VDOT shall provide written notice to the TIFIA Lender of VDOT's intent to enter into any Principal Project Contract or Additional Project Contract to be entered into by VDOT and, if such Additional Project Contract is subject to approval by the TIFIA Lender pursuant to Section 16(e) (*Principal Project Contracts; Additional Project Contracts*) of the Segment 4C TIFIA Loan Agreement, shall provide drafts of any such Additional Project Contracts at least thirty (30) days prior to the proposed effective date thereof, together with any related contracts, side letters or other understandings. If the TIFIA Lender requests a copy of any Additional Project Contract that is not subject to approval by the TIFIA Lender, VDOT shall provide a copy of the final or near final draft of such Additional Project Contract, together with any related contracts, side letters or other understandings, prior to the execution thereof (provided such request is made prior to the execution of such contract). VDOT shall provide a complete and fully executed version of each Principal Project Contract entered into by VDOT (together with any credit support instruments provided in connection therewith) and, if requested by the TIFIA Lender, VDOT shall provide to the TIFIA Lender an executed version of any Additional Project Contract entered into by VDOT, together with any related contracts, side letters or other understandings, promptly following the full execution thereof.

(b) Prosecution of Work; Verification Requirements.

(i) VDOT shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, and in accordance with good engineering practices.

(ii) VDOT shall ensure that the Design-Builder and its subcontractors comply with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by the Design-Builder to VDOT and shall ensure that any letter of credit provided pursuant to the Design-Builder meets the requirements therefor set forth therein.

(iii) VDOT shall comply with 2 CFR Part 180, including Subpart C, in particular §§ 180.300 and 180.320, and with 2 CFR § 1200.332.

(c) Roadway Operation and Maintenance. VDOT shall perform all Roadway O&M Work (as defined in the MTA) for the Project and the Express Lanes Network (i) in a reasonable and prudent manner, (ii) substantially in accordance with the Maintenance Protocol (as defined in the MTA) (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the Project), and (iii) in accordance with the requirements of all applicable laws and each applicable VDOT Agreement. VDOT shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(d) Compliance with VDOT Agreements. VDOT agrees to take all action necessary to comply with its obligations, covenants and responsibilities set forth in the VDOT Agreements.

(e) Compliance with Law. VDOT shall comply in all material respects with all applicable federal and State laws, including all items set forth in Exhibit E of the Segment 4C TIFIA Loan Agreement, to the extent applicable.

(f) Insurance.

(i) VDOT shall maintain or cause to be maintained insurance for the construction and operation of the Project, with responsible insurers and, in any event, as required by the VDOT Agreements and any other Principal Project Contracts to which VDOT is a party and, to the extent VDOT self-insures, VDOT shall maintain self-insurance retentions with respect to the Project and any operating portion of the Express Lanes Network as is customarily maintained by VDOT with respect to works and properties of like character against accident to, loss of or damage to, such works or properties, which shall include retentions for liability coverage and pollution and other environmental liability and remediation related coverage. VDOT shall cause each Principal Project Party under a Principal Project Contract to which VDOT is a party to obtain and maintain casualty and liability insurance in accordance with the requirements of the applicable Principal Project Contract.

(ii) Promptly upon request by the TIFIA Lender, VDOT shall deliver to the TIFIA Lender copies of any underlying insurance policies obtained by or on behalf of VDOT in respect of construction of the Project. All such policies shall

be available at all reasonable times for inspection by the TIFIA Lender, its agents and representatives.

(g) Notices.

(i) VDOT shall, within five (5) Business Days after VDOT learns of the occurrence, give the TIFIA Lender and the Borrower written notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event and including any relevant and significant documentation:

(A) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against VDOT before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by VDOT in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against VDOT with respect to the Project that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against VDOT with respect to the Project with individual award amounts in excess of \$5,000,000, either individually or in the aggregate;

(B) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and VDOT's plans to remedy or mitigate the effects of such failure or delay;

(C) Environmental Notices: any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(D) Insurance Claims: any insurance claims made by VDOT, the Design-Builder, any Toll System Contractor or any contractor pursuant to any other Principal Project Contract or Additional Project Contract in respect of the Project in excess of \$1,000,000, either individually or in the aggregate, to the extent related to the Project;

(E) Amendments: except as otherwise agreed by the TIFIA Lender in writing, copies of (1) any proposed amendments to any VDOT Agreement or other Principal Project Contract to which VDOT is a party at least thirty (30) days prior to the effective date thereof and (2) fully executed

amendments within ten (10) days following execution thereof (excluding, for clarity, Work Orders under the Design-Build Contract or any Toll System Contract issued by VDOT pursuant to the terms thereof);

(F) Defaults under VDOT Agreements, etc.: any event of default on the part of VDOT or any other party under any VDOT Agreement, any other Principal Project Contract to which VDOT is a party or any Additional Project Contract related to the operation and maintenance of the Project to which VDOT is a party;

(G) Force Majeure: the occurrence of any Force Majeure Event (as defined in the Design-Build Contract) with respect to the Project or the Express Lanes Network that, in either case, could reasonably be expected to result in a Material Adverse Effect;

(H) Project Changes: any (1) change to the forecasted Total Project Costs in excess of five percent (5%) of total forecasted Total Project Costs, together (in the case of increased costs) with a written description of the committed funding sources available to VDOT or the Borrower to pay for such increased Total Project Costs; or (2) material change to the Construction Schedule, together with a proposed revised Construction Schedule;

(I) 2 CFR Notices: (1) that any of the information set forth in the certificate provided by VDOT pursuant to Section 2.1(b) was incorrect at the time the certificate was delivered or there has been a change in status of VDOT or any of its principals with respect to the criteria set forth in 2 CFR § 180.335; (2) any other notification required pursuant to 2 CFR § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Segment 4C TIFIA Loan Agreement as described in 2 CFR § 200.113; and

(J) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect

(ii) VDOT shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in this Section 5.1(g).

(iii) Remedial Action. Within thirty (30) calendar days after VDOT learns of the occurrence of an event specified in Section 5.1(g)(i) (other than in Section 5.1(g)(i)(E) (*Amendments*)), VDOT's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions VDOT proposes to take with respect thereto.

(h) Maintain Legal Structure. VDOT shall maintain its existence as an agency of the Commonwealth of Virginia.

(i) Payments to the Commission. Notwithstanding any provision contained in the VDOT Agreements to the contrary, VDOT shall pay by wire transfer to the Toll Trustee (using the wire transfer information provided from time to time by the Borrower) for deposit to the Toll Revenue Fund or other appropriate account under the Toll Indenture (i) all liquidated damages and other damages and recoveries with respect to the Project or the Express Lanes Network that VDOT receives from any Principal Project Party or any other Person that are payable to the Commission and (ii) all other amounts with respect to the Project or the Express Lanes Network payable directly by VDOT to the Commission (in each case of clauses (i) and (ii), excluding amounts that the Commission has elected to apply as a credit against amounts that are payable by the Commission to VDOT and do not represent a payment to VDOT that is subject to the restrictions set forth in Section 16(d) of the Segment 4C TIFIA Loan Agreement).

VDOT shall make all such payments without any offset, abatement, withholding or reduction. By its acceptance and agreement to this Agreement, the Commission, for itself and its successors and permitted assigns, irrevocably consents to the making by VDOT of payments as provided in this Section 5.1(i).

(j) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to any segment of the Express Lanes Network or any part thereof, VDOT shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (B) except as otherwise required by the Toll Indenture, pay or apply all Loss Proceeds stemming from such event to repair or replace the affected portion of the Express Lanes Network (or reimburse VDOT for costs it has incurred to repair or replace the Project or the affected portion thereof).

(k) Immunity. VDOT specifically, and the Commonwealth of Virginia generally, neither waive nor abrogate their sovereign immunity, in part or in whole, in any manner, under any theory, hereunder. Notwithstanding the foregoing, VDOT agrees that, to the fullest extent permitted by applicable law, VDOT will not assert any immunity it may have as a governmental entity from lawsuits and other actions and claims presented in accordance with the laws of the Commonwealth of Virginia and any judgments with respect to the enforcement of any of the contractual obligations of VDOT under this Agreement.

(l) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to VDOT, then VDOT will provide written notice to the TIFIA Lender of the same and will promptly establish an anti-money laundering compliance program that complies with all applicable requirements of the Patriot Act.

(m) Cargo Preference Act. Pursuant to 46 CFR Part 381, VDOT hereby agrees as follows, and shall insert the following clauses in contracts entered into by VDOT pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) At least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with TIFIA Loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(ii) Within twenty (20) days following the date of loading for shipments originating within the United States of America or within thirty (30) Business Days following the date of loading for shipments originating outside the United States of America, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (i) above shall be furnished to both the TIFIA Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(n) Lobbying. VDOT shall comply with all applicable certification, declaration and/or disclosure requirements under 49 CFR Part 20.

(o) Reporting Subawards and Executive Compensation. To the extent applicable, VDOT shall comply, and shall require each subrecipient to comply, with the reporting requirements set forth in Exhibit P to the Segment 4C TIFIA Loan Agreement.

(p) Buy America.

(i) VDOT agrees that steel, iron, and manufactured products used in the Project are subject to 23 U.S.C. § 313, as implemented by FHWA. VDOT acknowledges that this Agreement is neither a waiver of 23 U.S.C. § 313(a) nor a finding under 23 U.S.C. § 313(b).

(ii) VDOT agrees that construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by the Office of Management and Budget, USDOT, and FHWA. VDOT acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Section 5.2 VDOT Negative Covenants related to Segment 4C TIFIA Loan Agreement. VDOT covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) No Lien Extinguishment or Adverse Amendments. VDOT shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) amend, modify, replace, or supplement any VDOT Agreement or any other Principal Project Contract or Additional Project Contract to which VDOT is a party in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender's determination) in connection with the TIFIA Loan,

(ii) waive or permit a waiver of any provision of any VDOT Agreement or any other Principal Project Contract or Additional Project Contract in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender's determination) in connection with the TIFIA Loan or (iii) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any VDOT Agreement or any other Principal Project Contract or Additional Project Contract except for termination, assignment, amendment, modification or waiver of timely performance that could not reasonably be expected to have a Material Adverse Effect (in the TIFIA Lender's determination). Except as otherwise agreed by the TIFIA Lender in writing, VDOT will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements or waivers of, or supplements to any VDOT Agreement or any other Principal Project Contract or Additional Project Contract at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification, replacement, waiver or supplement to any VDOT Agreement, within ten (10) days after execution thereof.

(b) No Prohibited Liens. Except for Permitted Liens, VDOT shall not create, incur, assume or permit to exist any Lien on the Project, the Express Lanes Network, the trust estate under either Indenture, the Pledged Revenues (as defined under the Segment 4C TIFIA Loan Agreement) or VDOT's respective rights in any of the foregoing. VDOT shall not collaterally assign any of its rights under or pursuant to any VDOT Agreement or any Principal Project Contract or Additional Project Contract to which it is a party and shall not permit a Lien to encumber VDOT's rights or privileges under any VDOT Agreement or any Principal Project Contract or Additional Project Contract to which VDOT is a party.

(c) Principal Project Contracts; Additional Project Contracts. VDOT shall not, without the prior written consent of the TIFIA Lender, enter into any Principal Project Contract that is not in effect as of the Effective Date (other than an Electronic Toll Collection Agreement that is in the form of Exhibit 14 to the MTA or a Violation Processing Services Agreement that is in the form of Exhibit 15 to the MTA). VDOT shall not, without the prior written consent of the TIFIA Lender, enter into any Additional Project Contract (or series of related contracts) allocable to the Project that commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, amounts that either: (i) exceed \$2,500,000, inflated annually by CPI, in any Borrower Fiscal Year, or (ii), alone or when aggregated with the other Total Project Costs or Operation and Maintenance Expenses, as applicable, in the same line item of the applicable budget set forth in the Financial Plan most recently submitted to the TIFIA Lender, would cause aggregate Total Project Costs or Operation and Maintenance Expenses, as applicable, for such line item in any Borrower Fiscal Year to exceed the amounts for such line item for any Borrower Fiscal Year reflected in the budget in the Financial Plan most recently submitted to the TIFIA Lender.

(d) No Prohibited Sale, Lease or Assignment. VDOT shall not sell, lease, or assign its rights in and to the Project, a substantial portion of the assets included in the Project or the Express Lanes Network, or its rights and obligations under any VDOT Agreement, in each case unless such sale, lease or assignment (or group of sales or disposals) (i) could not reasonably be expected to result in a Material Adverse Effect, (ii) could not reasonably be expected to result in a reduction to the Toll Revenues (as defined in the HRBT Toll TIFIA Loan Agreement) in any

material respect, (iii) could not reasonably be expected to increase Tolling O&M Costs (as defined in the MTA) in any material respect, and (iv) is made by VDOT in the ordinary course of business.

(e) Transactions with other Governmental Authorities. Except for the transactions expressly contemplated in the VDOT Agreements, VDOT shall not engage in any other transactions in connection with the Project with any other Governmental Authority (including any other Governmental Authority of or in the State), the terms and provisions of which are materially adverse to VDOT, the Borrower or the Project or that could reasonably be expected to result in a Material Adverse Effect.

(f) OFAC Compliance. VDOT:

(i) shall not violate (A) any applicable Anti-Money Laundering Laws, (B) any applicable Sanctions, (C) Anti-Corruption Laws or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal;

(ii) shall not use the proceeds of the TIFIA Loan for purposes other than those permitted by applicable law and as otherwise permitted under the Segment 4C TIFIA Loan Agreement and the VDOT Agreements;

(iii) shall ensure that each of its directors, officers, employees, and agents, shall not, directly or indirectly, use the proceeds of the TIFIA Loan or lend to, make any payment to, contribute or otherwise make available any funds to any Affiliate, joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the TIFIA Lender or any Principal Project Party); and

(iv) shall not make a payment, directly or indirectly, to any Principal Project Party that, to VDOT's knowledge, has violated any of the laws referenced in clause (i) above or that is a Sanctioned Person.

Section 5.3 Reports and Records; Required Audit; Financial Plan.

(a) Reports and Records. VDOT shall maintain and retain all files relating to the Project and the Express Lanes Network until three (3) years after the later of the date on which (i) all rights and duties hereunder and under the Segment 4C TIFIA Loan Agreement (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Express Lanes Network or the VDOT Agreements is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and VDOT. VDOT shall provide to the TIFIA Lender in a timely

manner all records and documentation relating to the Project, the Express Lanes Network or the VDOT Agreements that the TIFIA Lender may reasonably request from time to time.

(b) Required Audit. VDOT shall have a single or program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F and 31 U.S.C. § 7502 in 2019 and annually thereafter, except to the extent biennial audits are permitted for VDOT pursuant to 2 CFR § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, VDOT shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 CFR § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project, the Express Lanes Network or the VDOT Agreements, to the Secretary, or the designee thereof, for any such project or programmatic audit.

(c) Financial Plan. VDOT agrees to furnish the required information under Section 21(a) of the Segment 4C TIFIA Loan Agreement with respect to the Financial Plan and the statements and reports related thereto to enable the Borrower to fully comply with the Financial Plan requirements.

ARTICLE VI

VDOT AGREEMENT MODIFICATIONS AND CLARIFICATIONS

Section 6.1 Amendments and Clarifications Relating to the SPA.

(a) *[Subject to further review of the SPA]*

Section 6.2 Undertakings and Clarifications Relating to the Use of Insurance Proceeds Received in Respect of the Design-Build Contract. Except as otherwise required by the Toll Indenture, VDOT shall cause all insurance proceeds received from insurance policies required to be maintained under the Design-Build Contract relating to physical damage to the Project to be applied to repair the damaged portion of the Project.

Section 6.3 Agreements and Undertakings Relating to the Master Tolling Agreement. VDOT acknowledges and agrees that the license to use the Tolling Infrastructure and System and access the roadway to perform Tolling O&M Duties granted by VDOT to the Commission pursuant to Section 3.08(b) of the Master Tolling Agreement is irrevocable during the term of the Master Tolling Agreement.

Section 6.4 Agreements Relating to Toll System Contracts. VDOT hereby acknowledges and agrees that the Borrower shall be entitled to one hundred percent (100%) of any liquidated damages payable by the Toll System Contractor pursuant to or in connection with any Toll System Contract to which VDOT is a party and pursuant to which the Borrower has an obligation to pay the costs and expenses payable to the Toll System Contractor thereunder.

Section 6.5 Agreements Relating to Liquidated Damages. VDOT and the Commission acknowledge and agree that, if and to the extent VDOT collects or otherwise assesses liquidated damages from the Design-Builder pursuant to the Design-Build Contract, such liquidated damages shall be collected from (or assessed against) the Design-Builder by way of offset from amounts otherwise payable by VDOT to the Design-Builder under the Design-Build Contract. For clarity, the benefit of such offset, by way of reducing the funds due from HRTAC (under the SPA) and VDOT, will be shared ratably between HRTAC and VDOT or, in VDOT's discretion, with a more favorable sharing percentage in HRTAC's favor.

ARTICLE VII

TIFIA LENDER RIGHTS AND PROTECTIONS

Section 7.1 Project Monitoring. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. The FHWA Division Office has oversight responsibility for the Project, including ensuring compliance in all material respects with all applicable provisions of federal law. VDOT agrees to cooperate in good faith with the TIFIA Lender and the FHWA Division Office in the conduct of such monitoring by providing the TIFIA Lender and the FHWA Division Office with such reports, documentation or other information as shall be requested by the TIFIA Lender and the FHWA Division Office, or its agents, including any independent engineer reports, documentation or information.

Section 7.2 Specific Performance. The TIFIA Lender may seek specific performance of this Agreement, whether or not the Borrower shall have complied with any of the provisions hereof or of any VDOT Agreement applicable to it, at any time when VDOT shall have failed to comply with any of the provisions of this Agreement applicable to it. Notice of such demand for specific performance shall be made concurrently to each Party.

Section 7.3 Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 7.4 Delay or Omission Not Waiver. No waiver by the TIFIA Lender of any breach by VDOT of any of its obligations, agreements or covenants hereunder shall be deemed a waiver of any subsequent breach, or a waiver of any other obligation, agreement or covenant, and no delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of VDOT (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 7.5 No Third Party Rights. The Parties hereby agree that this Agreement creates no third party rights against the United States Government or the TIFIA Lender solely by virtue of this Agreement.

ARTICLE VIII

DAMAGES

Section 8.1 Waiver of Consequential Damages. To the extent permitted by applicable law, neither VDOT nor the TIFIA Lender shall assert, and both VDOT and the TIFIA Lender hereby waives, any claim on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, the other transactions contemplated hereby, the Segment 4C TIFIA Loan Agreement, or the use of the proceeds of any draws thereunder.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Notices. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to TIFIA Lender: Build America Bureau
United States Department of Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of
Credit Programs
Email: BureauOversight@dot.gov

with copies to: Federal Highway Administration
Virginia Division Office
400 North 8th St., Suite 750
Richmond, Virginia 23219-4825
Attn: Division Administrator
Telephone: 804-775-3320
Facsimile: 804-775-3356

If to VDOT: Virginia Department of Transportation
1401 E. Broad Street
Richmond, VA 23219
Attention: Chief Financial Officer
Facsimile: (804) 786-2940

With copies to:
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219
Attention: Chief, Transportation Section
Facsimile: (804) 786-9136

If to Borrower: Hampton Roads Transportation
Accountability Commission
The Regional Building
723 Woodlake Drive
Chesapeake, Virginia 23320
Attention: Executive Director
Email: kpage@hrtac.org

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, by VDOT's Authorized Representative, with respect to notices to VDOT, or by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender or the Servicer. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 9.1 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 9.1 (or in accordance with the latest unrevoked written direction from the receiving party); provided, that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 9.2 No Personal Recourse. No official, employee or agent of the TIFIA Lender, the Borrower or VDOT or any person executing this Agreement shall be personally liable under this Agreement by reason of the issuance, delivery, execution or performance hereof.

Section 9.3 Authorized Representatives.

(a) VDOT's Authorized Representative. VDOT shall at all times have appointed an authorized representative by designating such person or persons from time to time to act on VDOT's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer (as defined in the Segment 4C TIFIA Loan Agreement), if any, containing the specimen

signature or signatures of such person or persons and signed by VDOT (each such person, “**VDOT’s Authorized Representative**”).

(b) TIFIA Lender’s Authorized Representative. The TIFIA Lender shall at all times have appointed the TIFIA Lender’s Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA Lender’s behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

Section 9.4 Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Agreement shall in any event be effective without the written consent of the Parties.

Section 9.5 Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 9.6 Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 9.7 Successors and Assigns. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns and shall inure to the benefit of the Parties hereto and the successors and assigns of the TIFIA Lender. None of VDOT or the Borrower may sell, assign, transfer or delegate any of its rights or obligations under this Direct Agreement without the prior written consent of the TIFIA Lender.

Section 9.8 Counterparts; Electronic Signatures. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the Parties in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Each Party agrees that the transaction consisting of this Agreement may be conducted by electronic means. Each Party agrees, and acknowledges that it is such Party’s intent, that if such Party signs this Agreement using an electronic signature, it is signing, adopting, and accepting this Agreement and that signing this Agreement using an electronic signature is the legal equivalent of having placed its handwritten signature on this Agreement on paper. Each Party acknowledges that it is being provided with an electronic or paper copy of this Agreement in a usable format.

Section 9.9 Effectiveness. This Agreement shall be effective as of the Effective Date and shall remain in effect until all amounts borrowed under the TIFIA Loan has been irrevocably paid in full, together with any interest accrued thereon, and all other amounts and other obligations under the Segment 4C TIFIA Loan Agreement has been satisfied in full.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Name:
Title:

[Signature Page to Direct Agreement]

VIRGINIA DEPARTMENT OF TRANSPORTATION,
an agency of the Commonwealth of Virginia

By: _____

Name: Stephen C. Brich, P.E.

Title: Commissioner of Highways

[Signature Page to Segment 4C Direct Agreement]

**UNITED STATES DEPARTMENT OF
TRANSPORTATION, acting by and through the
Executive Director of the Build America Bureau**

By: _____
Name: Morteza Farajian
Title: Executive Director

[Signature Page to Segment 4C Direct Agreement]

EXHIBIT A

OPINIONS REQUIRED OF COUNSEL TO VDOT

An opinion of the counsel of VDOT, dated as of the Effective Date, to the effect that: (a) VDOT is duly formed, validly existing, and in good standing under the laws of the Commonwealth of Virginia; (b) VDOT has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Agreement and each of the VDOT Agreements; (c) the execution and delivery by VDOT of, and the performance of its respective obligations under, the Agreement and each of the VDOT Agreements, have been duly authorized by all necessary organizational or regulatory action; (d) VDOT has duly executed and delivered Agreement and each of the VDOT Agreements and each such document constitutes the legal, valid and binding obligation of VDOT; enforceable against VDOT in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of VDOT for the execution and delivery by VDOT of, and the performance of VDOT under, the Agreement and each of the VDOT Agreements other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by VDOT; (f) the execution and delivery by VDOT of, and compliance with the provisions of, the Agreement and each of the VDOT Agreements in each case do not (i) violate the Organizational Documents of VDOT, (ii) violate the law of the State, (iii) violate the laws of the United States of America that are customarily applicable to transactions of the type contemplated, except that no opinion shall be required with respect to Federal securities, banking, insurance, or tax laws, or (iv) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which VDOT is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which VDOT is subject; and (g) to counsel's knowledge after due inquiry, there are no pending actions, suits, proceedings or investigations against VDOT or any other party by or before any court, arbitrator or any other governmental authority in connection with the Agreement, the VDOT Agreements, or the Project.

EXHIBIT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS— PRIMARY COVERED TRANSACTIONS

The undersigned, on behalf of the VIRGINIA DEPARTMENT OF TRANSPORTATION, hereby certifies that the VIRGINIA DEPARTMENT OF TRANSPORTATION has fully complied with its verification obligations under 2 CFR § 180.320 and hereby further confirms, in accordance with 2 CFR § 180.335, that the VIRGINIA DEPARTMENT OF TRANSPORTATION and its principals (as defined in 2 CFR § 180.995):

(a) Are not presently excluded (as defined in 2 CFR § 180.940) or disqualified (as defined in 2 CFR § 180.935);

(b) Have not within a three (3) year period preceding the Effective Date been convicted of any of the offenses listed in 2 CFR §180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in 2 CFR §180.800(a); and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in that certain Direct Agreement, dated as of [____], 2023 between the TIFIA Lender, the Virginia Department of Transportation, and the Borrower, as the same may be amended from time to time.

Dated: _____

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Name:

Title:

EXHIBIT C

CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF APPROPRIATED FUNDS FOR LOBBYING

The undersigned, on behalf of the VIRGINIA DEPARTMENT OF TRANSPORTATION, hereby certifies, to the best of his or her knowledge and belief, that the VIRGINIA DEPARTMENT OF TRANSPORTATION:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of VDOT, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the TIFIA Loan.

(b) If any funds other than proceeds of the TIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the TIFIA Loan, VDOT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) VDOT shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the TIFIA Lender entered into this Agreement. Submission of this certification is a prerequisite to the effectiveness of this Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: _____

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Name:

Title:

EXHIBIT D

FORM OF VDOT'S OFFICER'S CERTIFICATE

Reference is made to that certain Direct Agreement, dated as of [____], 2023 (the “Direct Agreement”), by and among the Virginia Department of Transportation (“VDOT”), Hampton Roads Transportation Accountability Commission (the “Borrower”), and the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the Direct Agreement.

Pursuant to Section 2.1(c) (*Conditions Precedent*) of the Direct Agreement, the undersigned, [____], as VDOT's Authorized Representative, does hereby certify on behalf of VDOT and not in his/her personal capacity, as of the date hereof:

- (a) attached hereto as **Exhibit A** is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by VDOT to execute the Direct Agreement, and who have been appointed VDOT's Authorized Representative in accordance with Section 9.3(a) (*VDOT's Authorized Representative*) of the Direct Agreement;
- (b) VDOT hereby certifies that it has complied with (A) the disclosure requirements set forth in 2 CFR § 180.355, (B) the verification requirements set forth in 2 CFR §§ 180.300 and 180.320, and (C) its obligations under 2 CFR § 180.330 with respect to the Project Construction Contracts;
- (c) VDOT hereby certifies that:
 - a. all Governmental Approvals necessary to commence construction of the Project have been obtained and all such Governmental Approvals are in full force and effect, and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval;
 - b. with respect to the Project, VDOT has complied with NEPA;
 - c. VDOT has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
 - d. VDOT and each applicable Principal Project Party, as and if applicable, have obtained insurance with respect to the Project, which meets the requirements of Section 15(e) (Compliance with Principal Project Contracts) of the Segment 4C TIFIA Loan Agreement; and
 - e. Each performance security instrument delivered to or by VDOT pursuant to any Principal Project Contract as of the Effective Date is (A) in compliance with the

requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

- (d) pursuant to Section 2.1(e) (*Conditions Precedent*) of the Direct Agreement, attached hereto as **Exhibit B** is evidence that VDOT is duly created and validly existing under the laws of the Commonwealth;
- (e) pursuant to Section 2.1(e) (*Conditions Precedent*) of the Direct Agreement, attached hereto as **Exhibit C** is a certified copy of the resolutions authorizing the execution of the Direct Agreement;
- (f) pursuant to Section 2.1(f) (*Conditions Precedent*) of the Direct Agreement attached hereto as **Exhibit D** are copies of certificates of insurance evidencing the property damage and liability insurance policies maintained by VDOT and by each of the Principal Project Parties as of the date of the Direct Agreement; and
- (g) pursuant to Section 2.1(g) (*Conditions Precedent*) of the Direct Agreement, VDOT hereby certifies that the representations and warranties of VDOT set forth in the Direct Agreement and in each other VDOT Agreement in effect as of the Effective Date are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

VIRGINIA DEPARTMENT OF
TRANSPORTATION

By:_____

Name:

Title: Authorized Representative

EXHIBIT A TO EXHIBIT D

INCUMBENCY CERTIFICATE

The undersigned certifies that she is the [] of the Virginia Department of Transportation, an agency of the Commonwealth of Virginia (“VDOT”), and as such s/he is authorized to execute this certificate and further certifies that the following person has been elected or appointed, is qualified, and is now acting as an officer or authorized person of the Borrower in the capacity indicated below, and that the signature set forth opposite his name is a true and genuine signature. [Sh][H]e further certifies that any of the officer or authorized person listed below is authorized to sign the Direct Agreement as VDOT’s Authorized Representative (as defined in that certain Direct Agreement, dated as of the date hereof, among VDOT, the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

Name	Title	Signature
[]	[]	_____
[]	[]	_____
[]	[]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of _____, 2023.

VIRGINIA DEPARTMENT OF
TRANSPORTATION

By: _____
Name:
Title:

TENTH SUPPLEMENTAL SERIES INDENTURE OF TRUST

between

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee**

Dated as of _____, 2023

relating to

\$ _____

**Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund**

**Intermediate Lien Bond Anticipation Notes
Series 2023A**

TABLE OF CONTENTS

ARTICLE I SERIES SUPPLEMENT

Section 1.1	Series Supplement.....	2
Section 1.2	Definitions.....	2
Section 1.3	Representations of HRTAC	4

ARTICLE II AUTHORIZATION AND DETAILS OF 2023A NOTES

Section 2.1	Authorization of 2023A Notes.....	5
Section 2.2	Details of 2023A Notes.....	5
Section 2.3	Book Entry Provisions for the 2023A Notes	6
Section 2.4	Form of 2023A Notes	7
Section 2.5	Authentication of 2023A Notes	7

ARTICLE III [RESERVED]

ARTICLE IV ESTABLISHMENT OF FUNDS AND ACCOUNTS; APPLICATION OF PROCEEDS

Section 4.1	Establishment of Funds and Accounts for the 2023A Notes	8
Section 4.2	Application of Sale Proceeds of the 2023A Notes.....	9

ARTICLE V APPLICATION OF CERTAIN FUNDS

Section 5.1	Cost of Issuance Fund.....	9
Section 5.2	Project Fund.....	9
Section 5.3	Note Debt Service Fund.....	10
Section 5.4	Rebate Fund	10

ARTICLE VI SPECIAL COVENANTS

Section 6.1	Security for the 2023A Notes	11
Section 6.2	Covenant to Requisition Under 2023 TIFIA Loan Agreement and to Take Further Actions in the Event Such Moneys are Insufficient.....	11
Section 6.3	Issuance of Additional Series of Bonds.....	11
Section 6.4	Tax Regulatory Agreement.....	12

ARTICLE VII MISCELLANEOUS

Section 7.1	Successors and Assigns.....	13
Section 7.2	Severability	13
Section 7.3	Governing Law	13
Section 7.4	Counterparts.....	13
Section 7.5	Parties Interested.....	13

EXHIBIT A	DESCRIPTION OF 2023A NOTES PROJECT
EXHIBIT B	FORM OF 2023A NOTE
EXHIBIT C-1	FORM OF 2023A COST OF ISSUANCE FUND REQUISITION
EXHIBIT C-2	FORM OF 2023A PROJECT FUND REQUISITION

TENTH SUPPLEMENTAL SERIES INDENTURE OF TRUST

This **TENTH SUPPLEMENTAL SERIES INDENTURE OF TRUST** (this “Tenth Series Supplement”) is made as of _____, 2023 between the **HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION**, a body politic and a political subdivision of the Commonwealth of Virginia (“HRTAC”), and **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association, and its successors, as trustee (the “Trustee”).

RECITALS

WHEREAS, HRTAC is a body politic and a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) having the authority under the Code of Virginia of 1950, as amended (the “Virginia Code”), to receive all of the amounts dedicated to the Hampton Roads Transportation Fund (the “HRTF”) from the additional sales and use tax revenues described in Section 58.1-638.H.2 of the Virginia Code and the additional wholesale motor vehicle fuels sales tax revenues described in Section 58.1-2295.A.2 of the Virginia Code;

WHEREAS, as provided in Chapter 26, Title 33.2, of the Virginia Code (the “HRTAC Act”), HRTAC shall use the moneys deposited in the HRTF solely for the purposes of (i) funding new construction projects on new or existing highways, bridges, and tunnels in the Member Localities (as hereinafter defined), giving priority to projects expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing within the Member Localities, and (ii) paying HRTAC’s administrative and operating expenses as provided in the Annual Budget;

WHEREAS, Section 33.2-2606 of the HRTAC Act authorizes and empowers HRTAC to issue bonds and other evidences of debt and provides that the provisions of Article 5 (Section 33.2-1920 *et seq.*) of Chapter 19 of Title 33.2 of the Virginia Code shall apply, *mutatis mutandis*, to the issuance of such bonds and other evidences of debt (collectively, the “Bonds”) for any of HRTAC’s purposes;

WHEREAS, Section 33.2-1920 of the Virginia Code permits the Bonds to be payable from and secured by a pledge of all or any part of the revenues, moneys or funds of HRTAC as specified in a resolution adopted or indenture entered into by HRTAC, but that such Bonds shall not constitute debt of the Commonwealth or any political subdivision thereof (including any Member Locality) other than HRTAC, and that such Bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction except as provided under Section 33.2-1920 of the Virginia Code;

WHEREAS, HRTAC has executed and delivered to the Trustee a Master Indenture of Trust dated as of February 1, 2018 (as supplemented and amended, the “Master Indenture”), under which, among other things, HRTAC has provided for the financing and refinancing of the costs of Projects through the issuance from time to time of Bonds, payable from and secured by the HRTAC Revenues;

WHEREAS, HRTAC now desires to issue, sell, and deliver a Series of Intermediate Lien Obligations under the Master Indenture in the original aggregate principal amount of \$_____ (as further described in Section 2.1(a) below, the “2023A Notes”);

WHEREAS, HRTAC will use the proceeds of the 2023A Notes to: (a) pay, or to reimburse itself for, portions of the costs of the construction and acquisition of the Project described in Exhibit A hereto (the “2023A Notes Project”), (b) pay certain capitalized interest on the 2023A Notes through July 1, 2025, and (c) finance certain costs of issuance of the 2023A Notes;

WHEREAS, the Master Indenture provides that, as a condition to the issuance and authentication of any Series of Bonds, HRTAC shall deliver to the Trustee a Series Supplement, which shall consist of this Tenth Series Supplement; and

WHEREAS, all things necessary to make the 2023A Notes valid and binding limited obligations of HRTAC, when authenticated and issued as provided in this Tenth Series Supplement, and to constitute this Tenth Series Supplement a valid and binding Series Supplement securing the payment of the principal of and premium, if any, and interest on the 2023A Notes, have been done and performed.

NOW, THEREFORE, HRTAC hereby covenants and agrees with the Trustee and with the Owners, from time to time, of the 2023A Notes, as follows:

ARTICLE I SERIES SUPPLEMENT

Section 1.1 Series Supplement This Tenth Series Supplement is a Series Supplement that is authorized and executed by HRTAC and delivered to the Trustee pursuant to and in accordance with Articles V and XV of the Master Indenture. All terms, covenants, conditions and agreements of the Master Indenture apply with full force and effect to the 2023A Notes, except as otherwise expressly stated in this Tenth Series Supplement.

Section 1.2 Definitions. All capitalized words and terms used in this Tenth Series Supplement, including in the recitals, shall have the meanings set forth in Article I of the Master Indenture unless the context clearly requires a different or separate meaning. In addition, the following words and terms have the following meanings in this Tenth Series Supplement unless the context clearly requires otherwise:

“2023A Cost of Issuance Fund” means the Cost of Issuance Fund Related to the 2023A Notes established pursuant to Section 7.1 of the Master Indenture and Section 4.1 of this Tenth Series Supplement.

“2023A Note Debt Service Fund” means the Debt Service Fund Related to the 2023A Notes established pursuant to Section 7.1 of the Master Indenture and Section 4.1 of this Tenth Series Supplement.

“2023A Notes” means the Series of Intermediate Lien Obligations authorized to be issued under Section 2.1(a) of this Tenth Series Supplement.

“2023A Notes Principal Payment Date” means _____, 20__.

“2023A Notes Project” means the Project described in Exhibit A hereto.

“2023A Project Fund” means the Project Fund Related to the 2023A Notes established pursuant to Section 7.1 of the Master Indenture and Section 4.1 of this Tenth Series Supplement.

“2023A Rebate Fund” means the Rebate Fund Related to the 2023A Notes established pursuant to Section 7.1 of the Master Indenture and Section 4.1 of this Tenth Series Supplement.

“2023A Tax Regulatory Agreement” means the Tax Certificate and Regulatory Agreement dated the Closing Date made by HRTAC for the benefit of the Trustee and the Owners of the 2023A Notes.

“2023 TIFIA Loan Agreement” means the 2023 TIFIA Loan Agreement included as Exhibit A to the Ninth Series Supplement, dated as of _____, 2023, by and between HRTAC and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, as amended or supplemented from time to time.

“Closing Date” means the date of the issuance, authentication and delivery of the 2023A Notes.

“Dated Date” means the Closing Date.

“DTC” shall have the meaning set forth in Section 2.3 of this Tenth Series Supplement.

“Fifth Series Supplement” means the Fifth Supplemental Series Indenture of Trust dated as of September 1, 2021 between HRTAC and the Trustee, supplementing and amending the Master Indenture.

[“Intermediate Lien Debt Service Reserve Fund Requirement” means the least of (a) ten percent (10%) of the principal amount of Intermediate Lien Obligations then Outstanding that are participating in the Intermediate Lien Debt Service Reserve Fund or in a separately created Intermediate Lien Debt Service Reserve Fund established in a Series Supplement (provided, however, that if such Intermediate Lien Obligations have original issue discount or premium that exceeds two percent (2%) of the stated redemption price at maturity plus any original issue premium attributable exclusively to underwriters’ compensation, the issue price shall be used in lieu of the stated principal amount for purposes of the 10% limitation), (b) the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on Intermediate Lien Obligations Outstanding that are participating in the Intermediate Lien Debt Service Reserve Fund or in a separately created Intermediate Lien Debt Service Reserve Fund established in a Series Supplement plus the Series of Intermediate Lien Obligations to be issued, or (c) one hundred and twenty-five percent (125%) of the average annual Principal and Interest Requirements on all Intermediate Lien Obligations then Outstanding that are participating in the Intermediate Lien

Debt Service Reserve Fund or in a separately created Intermediate Lien Debt Service Reserve Fund established in a Series Supplement through their final maturity date. As provided in the Master Indenture, HRTAC may (y) provide that any Intermediate Lien Debt Service Reserve Fund be held collectively or with respect to all or multiple Series of Intermediate Lien Obligations, and (z) determine that a Series of Intermediate Lien Obligations shall not participate in or be secured by an Intermediate Lien Debt Service Reserve Fund. The 2023A Notes are not participating in or secured by an Intermediate Lien Debt Service Reserve Fund.]

“Letter of Representations” means HRTAC’s Blanket Issuer Letter of Representations to DTC dated January 22, 2018.

“Master Indenture” means the Master Indenture of Trust dated as of February 1, 2018, between HRTAC and the Trustee, as the same may be modified, altered, amended and supplemented from time to time in accordance with its terms.

“Member Localities” means, collectively, each county and city located in Planning District 23, established pursuant to Chapter 42, Title 15.2, of the Virginia Code, currently consisting of the Counties of Isle of Wight, James City, Southampton and York, and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg, and any other localities that may hereafter be added to HRTAC by amendment to the Virginia Code.

“Ninth Series Supplement” means the Ninth Supplemental Series Indenture of Trust dated as of _____, 2023 between HRTAC and the Trustee, supplementing and amending the Master Indenture.

“Rebate Requirement” means, collectively, the requirements applicable to tax-exempt bonds under Section 148(f)(2) and (3) of the Tax Code.

["Second Series Supplement” means the Second Supplemental Series Indenture of Trust dated as of December 1, 2019, between HRTAC and the Trustee.]

“Seventh Series Supplement” means the Seventh Supplemental Series Indenture of Trust dated as of September 21, 2021, between HRTAC and the Trustee.

“Tenth Series Supplement” means this Tenth Supplemental Series Indenture of Trust dated as of _____, 2023, between HRTAC and the Trustee, being a Series Supplement with respect to the Series 2023A Notes pursuant to the provisions of the Master Indenture.

Section 1.3 Representations of HRTAC. HRTAC represents that (i) it is duly authorized under the Constitution and laws of the Commonwealth, including, particularly and without limitation, Section 33.2-2606 of the HRTAC Act, to issue the 2023A Notes, to execute this Tenth Series Supplement, and to pledge and grant the security provided herein subject to the Master Indenture, (ii) all action on its part necessary for the execution and delivery of this Tenth Series Supplement has been taken, and (iii) the 2023A Notes in the hands of the Owners thereof are and will be valid and enforceable limited obligations of HRTAC.

ARTICLE II AUTHORIZATION AND DETAILS OF 2023A NOTES

Section 2.1 Authorization of 2023A Notes. (a) There is authorized to be issued pursuant to the Master Indenture a Series of Intermediate Lien Obligations in the aggregate principal amount of \$_____, to be called the “Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A.”

(b) The proceeds of the 2023A Notes shall be used to finance the 2023A Notes Project, along with capitalized interest through July 1, 2025 and costs of issuance.

(c) The 2023A Notes are being issued to pay the costs of 2023A Notes Project and in anticipation of the proceeds to be received by HRTAC from disbursements requested by HRTAC under and in accordance with the terms of the 2023 TIFIA Loan Agreement (which disbursements thereby increase the principal amount of the Bond issued by HRTAC as evidence of its obligation to repay the loan under the 2023 TIFIA Loan Agreement).

(d) The 2023A Notes are secured as provided in Article VI of this Tenth Series Supplement.

(e) Interest on the 2023A Notes through through July 1, 2025 shall be payable from amounts on deposit in the 2023A Capitalized Interest Subaccount (established in Article IV hereof) for so long as there are sufficient amounts therein or otherwise and thereafter as described in Article V of this Tenth Series Supplement. Principal due on the 2023A Notes on the 2023A Notes Principal Payment Date shall be payable from amounts available in the Funds and Accounts as described in Article V of this Tenth Series Supplement, from the proceeds of disbursements under the 2023 TIFIA Loan Agreement (if any), and otherwise as provided in Section 6.2 hereof.

Section 2.2 Details of 2023A Notes. (a) The 2023A Notes shall be dated the Dated Date, shall be issued in denominations of \$5,000 and integral multiples of \$5,000, shall be numbered from R-1 upwards, sequentially, and shall bear interest, payable on each January 1 and July 1, commencing on _____ 1, 20__, at the annual rate of _____ (%), and shall mature on the 2023A Notes Principal Payment Date.

(b) Each 2023A Note shall bear interest (i) from the Dated Date, if such 2023A Note is authenticated before _____ 1, 20__, or (ii) otherwise from the Interest Payment Date that is, or immediately precedes, the date on which such 2023A Note is authenticated; provided, however, that if at the time of authentication any payment of interest is in default, such 2023A Note shall bear interest from the date to which interest has been paid. Interest on the 2023A Notes shall be computed on the basis of a year of 360 days and twelve 30-day months.

(c) Interest on the 2023A Notes shall be payable by checks or drafts mailed to the Owners thereof at their addresses as they appear on the fifteenth day of the month preceding the Interest Payment Date on the registration books kept by the Trustee. Notwithstanding the foregoing, if (i) the Owner of a 2023A Note owns at least \$1,000,000 in aggregate principal amount

of 2023A Notes, and (ii) such Owner has provided satisfactory prior notice to the Trustee regarding payment by wire transfer, then interest shall be paid to such Owner by wire transfer. Principal of and premium, if any, on the 2023A Notes shall be payable to the Owners thereof upon the surrender of the 2023A Notes at the Trustee's corporate trust office in Richmond, Virginia.

(d) Notwithstanding the foregoing, for so long as Cede & Co. or other nominee of DTC is Owner of all of the 2023A Notes, principal of and premium, if any, and interest on the 2023A Notes shall be payable as provided in the Letter of Representations.

(e) The principal of and premium, if any, and interest on the 2023A Notes shall be payable in lawful money of the United States of America.

(f) If the principal of any 2023A Note is not paid when due (whether at maturity or otherwise), then the overdue principal shall continue to bear interest until paid at the rate set forth in such 2023A Note.

Section 2.3 Book Entry Provisions for the 2023A Notes. (a) The 2023A Notes will be registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), and immobilized in DTC's custody. One fully registered 2023A Note for the original principal amount of each maturity of the 2023A Notes will be registered to Cede & Co. Beneficial owners of the 2023A Notes will not receive physical delivery of the 2023A Notes. Individual purchases of the 2023A Notes may be made in book-entry form only in original principal amounts of \$5,000 and integral multiples of \$5,000. For as long as the 2023A Notes are held in book-entry format, payments of principal of and premium, if any, and interest on the 2023A Notes will be made to DTC or its nominee as the sole Owner on the applicable Payment Date in accordance with the Letter of Representations.

DTC is responsible for the transfer of the payments of the principal of and premium, if any, and interest on the 2023A Notes to the participants of DTC, which include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations (the "Participants"). Transfer of the payments of the principal of and premium, if any, and interest on the 2023A Notes to the beneficial owners of the 2023A Notes is the responsibility of the Participants and other nominees of such beneficial owners.

Transfer of beneficial ownership interests in the 2023A Notes shall be made by DTC and its Participants, acting as nominees of the beneficial owners of the 2023A Notes, in accordance with rules specified by DTC and its Participants. Neither HRTAC nor the Trustee makes any assurances that DTC, its Participants or other nominees of the beneficial owners of the 2023A Notes will act in accordance with such rules or on a timely basis.

HRTAC and the Trustee disclaim any responsibility or obligations to the Participants or the beneficial owners with respect to (i) the accuracy of any records maintained by DTC or any Participant, (ii) the payment by DTC or any Participant of any amount due to any beneficial owner in respect of the principal of and premium, if any, and interest on the 2023A Notes, (iii) the delivery by DTC or any Participant of any notice to any beneficial owner that is required or permitted under the terms of the Master Indenture or this Tenth Series Supplement to be given to Owners of the 2023A Notes, (iv) the selection of the beneficial

owners to receive payment in any partial redemption of the 2023A Notes, or (v) any consent given or other action taken by DTC as Owner.

So long as Cede & Co., as nominee of DTC, is the sole Owner of the 2023A Notes, references in the Master Indenture or this Tenth Series Supplement to the Owners or registered owners of the 2023A Notes shall mean Cede & Co. and not the beneficial owners of the 2023A Notes. Any notice to or consent requested of Owners of 2023A Notes under the Master Indenture or this Tenth Series Supplement shall be given to or requested of Cede & Co.

(b) Replacement Notes (the “Replacement Notes”) will be registered in the name of and be issued directly to beneficial owners of the 2023A Notes rather than to DTC, or its nominee, but only if:

(1) DTC determines not to continue to act as securities depository for the 2023A Notes; or

(2) The Trustee or HRTAC has advised DTC of HRTAC’s determination that DTC is incapable of discharging its duties or that it is otherwise in the best interests of the beneficial owners of the 2023A Notes to discontinue the book-entry system of transfer.

(c) Upon the occurrence of an event described in subsection (b)(1) or (2) above (but the Trustee and HRTAC have no duty or undertake no obligation to make any investigation regarding the matters described in subsection (b)(2) above), HRTAC may attempt to locate another qualified securities depository. If HRTAC fails to locate another qualified securities depository to replace DTC, HRTAC shall execute and the Trustee shall authenticate and deliver to the Participants the Replacement Notes (substantially in the form set forth in Exhibit B with such appropriate variations, omissions and insertions as are permitted or required by the Master Indenture or this Tenth Series Supplement) to which the Participants are entitled for delivery to the beneficial owners of the 2023A Notes. The Trustee shall be entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Notes. The Owners of the Replacement Notes shall be entitled to the lien and benefits of the Master Indenture and this Tenth Series Supplement.

Section 2.4 Form of 2023A Notes. Each of the 2023A Notes shall be substantially in the form attached as Exhibit B to this Tenth Series Supplement, with such appropriate variations, omissions and insertions as permitted or required by the Master Indenture or this Tenth Series Supplement. There may be endorsed on any of the 2023A Notes such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law.

Section 2.5 Authentication of 2023A Notes. (a) Each 2023A Note shall bear a certificate of authentication, substantially as set forth in the form of the 2023A Note attached as Exhibit B, duly executed by the Trustee. The Trustee shall authenticate each 2023A Note with the signature of one of its authorized officers or employees, but it shall not be necessary for the same person to authenticate all of the 2023A Notes. Only such authenticated 2023A Notes shall be entitled to any right or benefit under the Master

Indenture or this Tenth Series Supplement, and such certificate on any 2023A Note shall be conclusive evidence that the 2023A Note has been duly issued under and is secured by the provisions of the Master Indenture and this Tenth Series Supplement.

(b) The Trustee shall authenticate and deliver the 2023A Notes when there have been filed with it the following:

- i. The various documents, certificates and opinions required under Section 5.3 of the Master Indenture; and
- ii. An Officer's Certificate showing compliance with the provisions of Section 8.4 of each of [the Second Series Supplement], the Fifth Series Supplement, the Seventh Series Supplement, and the Ninth Series Supplement, and the respective "Indebtedness" portion of the "Negative Covenants" sections of the [corresponding TIFIA loan agreements, as applicable], with respect to the issuance of the 2023A Notes as Intermediate Lien Obligations, and delivery of the documents specified in Section 12(c) of the 2023 TIFIA Loan Agreement.

In connection with the foregoing, HRTAC specifies that the principal amount of the 2023A Notes, due and payable on _____, 20__ is expected to be payable from anticipated draws under the 2023 TIFIA Loan Agreement, which do not constitute HRTAC Revenues; therefore, such principal amount constitutes an "Excluded Principal Payment" as defined in the Master Indenture. Any disbursements under the 2023 TIFIA Loan Agreement received by or on behalf of HRTAC shall not constitute or comprise HRTAC Revenues.

ARTICLE III [RESERVED]

ARTICLE IV ESTABLISHMENT OF FUNDS AND ACCOUNTS; APPLICATION OF PROCEEDS

Section 4.1 Establishment of Funds and Accounts for the 2023A Notes. (a) In accordance with Section 7.1 of the Master Indenture, the following Funds are hereby established for the 2023A Notes:

(i) the 2023A Cost of Issuance Fund;

(ii) the 2023A Project Fund;

(iii) the 2023A Note Debt Service Fund, and within the 2023A Note Debt Service Fund there is established the 2023A Interest Account, the 2023A Principal Account, and the 2023A Capitalized Interest Subaccount; and

(iv) the 2023A Rebate Fund.

(b) All of the Funds and Accounts established pursuant to this Section shall be held by the Trustee.

(c) As provided in Section 7.1(b) of the Master Indenture, HRTAC has determined not to establish a debt service reserve fund securing the 2023A Notes, and the Owners of the Series 2023A Notes are not entitled to the benefits of any debt service reserve fund or account established for the benefit of any other Series of Bonds.

Section 4.2 Application of Sale Proceeds of the 2023A Notes. On the Closing Date, the Trustee shall apply the total amount received from the underwriters of the 2023A Notes in payment therefor (\$_____, which is the principal amount of \$_____, [plus][less] [net] original issue [premium][discount] of \$_____, less underwriting discount of \$_____), as follows:

(1) \$_____ shall be delivered to the Trustee to be deposited in the 2023A Cost of Issuance Fund;

(2) \$_____ shall be delivered to the Trustee to be deposited in the 2023A Project Fund; and

(3) \$_____ shall be delivered to the Trustee to be deposited in the 2023A Capitalized Interest Subaccount.

ARTICLE V APPLICATION OF CERTAIN FUNDS

Section 5.1 Cost of Issuance Fund. (a) The Trustee shall disburse the amounts in the 2023A Cost of Issuance Fund to pay the issuance and financing costs of the 2023A Notes. Disbursements from the 2023A Cost of Issuance Fund shall be made by the Trustee to HRTAC or as directed by HRTAC upon receipt by the Trustee of a requisition (upon which the Trustee shall be entitled to rely) signed by an HRTAC Representative and containing all information called for by, and otherwise being in the form of, Exhibit C-1.

(b) Any amount deposited in the 2023A Cost of Issuance Fund as described in Section 4.2(a)(1) that is not applied in accordance with Section 9.1 of the Master Indenture to pay the costs of issuance of the 2023A Notes shall be transferred to the 2023A Project Fund and applied as set forth in Section 5.2 below pursuant to an Officer's Certificate.

Section 5.2 Project Fund. (a) The Trustee will disburse the amounts in the 2023A Project Fund to the payment or reimbursement of the costs of the 2023A Notes Project. Disbursements from the 2023A Project Fund shall be made by the Trustee to HRTAC or as directed by HRTAC upon receipt by the Trustee of a requisition (upon which the Trustee shall be entitled to rely) signed by an HRTAC Representative and containing all information called for by, and otherwise being in the form of, Exhibit C-2.

(b) If the Trustee receives an Officer's Certificate stating that certain amounts in the 2023A Project Fund will not be necessary to pay the costs of the 2023A Notes Project, the Trustee shall then apply any remaining balance at the direction of an HRTAC Representative and with the consent of the TIFIA Lender, as defined in the 2023 TIFIA Loan Agreement, in such manner as will not, in the Opinion of Bond Counsel delivered to HRTAC and the Trustee, have an adverse effect on the tax-exempt status of the 2023A Notes.

Section 5.3 Note Debt Service Fund. (a) On or before each Interest Payment Date to and including through July 1, 2025, the Trustee shall transfer the interest payment due on the 2023A Notes from the 2023A Capitalized Interest Subaccount to the 2023A Interest Account. In the event (i) the amounts transferred pursuant to the preceding sentence are insufficient to pay the interest on the 2023A Notes in full on an Interest Payment Date, and (ii) amounts in the 2023A Capitalized Interest Subaccount are exhausted, HRTAC shall transfer HRTAC Revenues into the 2023A Interest Account in accordance with the provisions of Section 8.1(b) of the Master Indenture.

Thereafter, monthly transfers by HRTAC to the Trustee into the 2023A Interest Account under Section 8.1(b) of the Master Indenture shall be in an amount not less than one-sixth of the interest due on the 2023A Notes on the next ensuing Interest Payment Date, in accordance with the provisions of Section 8.1(b) of the Master Indenture.

If, on the 2023A Notes Principal Payment Date, any moneys remain in the 2023A Capitalized Interest Subaccount after the transfers required by the preceding paragraph, the remainder shall be applied to the payment of principal on the 2023A Notes in the event there are insufficient other moneys to make such payment in full, or to pay costs of the 2023A Notes Project pursuant to written direction to the Trustee from an HRTAC Representative.

(b) On or before the 2023A Notes Principal Payment Date, HRTAC shall transfer to the Trustee for deposit into the Series 2023A Notes Principal Account such amount as may be specified in an Officer's Certificate from the proceeds of disbursements under the 2023 TIFIA Loan Agreement. In the event the amounts transferred in the preceding sentence are insufficient to pay the principal on the 2023A Notes in full, HRTAC shall deposit HRTAC Revenues into the Series 2023A Notes Principal Account in accordance with the provisions of Section 8.1(b) of the Master Indenture until the 2023A Notes have been paid in full or from other funds that are available for such purpose pursuant to Section 6.2 herein.

(c) For purposes of this section, HRTAC shall be entitled to a credit immediately before each Interest Payment Date for interest earned on monies deposited in the 2023A Interest Account.

Section 5.4 Rebate Fund. The Trustee shall invest and apply amounts on deposit in the 2023A Rebate Fund as directed by Officer's Certificates provided pursuant to and in accordance with the Master Indenture.

ARTICLE VI SPECIAL COVENANTS

Section 6.1 Security for the 2023A Notes

(a) The 2023A Notes shall be issued pursuant to the Master Indenture and this Tenth Series Supplement as Intermediate Lien Obligations and shall be (a) equally and ratably secured with respect to the HRTAC Revenues and certain Funds, Accounts and Subaccounts established under the Master Indenture with any other Series of Intermediate Lien Obligations of HRTAC issued pursuant to Article V of the Master Indenture, without preference, priority or distinction of any Intermediate Lien Obligations over any other Intermediate Lien Obligations, and (b) secured with respect to certain Funds, Accounts and Subaccounts in accordance with the provisions of this Tenth Series Supplement. Notwithstanding anything in the Indenture to the contrary and as provided in Section 2.1(b) of the Master Indenture, the money and investments held in the 2023A Project Fund and in the 2023A Note Debt Service Fund, including the 2023A Capitalized Interest Subaccount, are pledged to secure the 2023A Notes.

(b) HRTAC has designated the principal amount of the Series 2023A Notes as an “Excluded Principal Payment” under the Master Indenture due to the use of anticipated draws under the 2023 TIFIA Loan Agreement for payment of the principal amount of the Series 2023A Notes. HRTAC may provide in an Officer’s Certificate instructions to the Trustee for the transfer and deposit of such disbursements, if any, into the 2023A Principal Account of the 2023A Note Debt Service Fund as provided in Section 5.3(b) of this Tenth Series Supplement.

Section 6.2 Covenant to Requisition Under 2023 TIFIA Loan Agreement and to Take Further Actions in the Event Such Moneys are Insufficient. HRTAC hereby covenants to take all actions necessary to ensure that it will submit a timely requisition by the last business day of the month that precedes the 2023A Notes Principal Payment Date by two months such that sufficient monies under the 2023 TIFIA Loan Agreement may be disbursed to pay the 2023A Notes in full on the 2023A Notes Principal Payment Date. In the event the amounts received under the 2023 TIFIA Loan Agreement are insufficient to pay the principal on the 2023A Notes in full on the 2023A Notes Principal Payment Date, HRTAC hereby agrees to use its best efforts to find an alternative financing solution, which could include the issuance of rollover bond anticipation notes and/or other Bonds secured by HRTAC Revenues under the Master Indenture.

Section 6.3 Issuance of Additional Series of Bonds. [For so long as the 2023A Notes are Outstanding, HRTAC agrees, with respect to and in addition to the provisions of the Master Indenture relating to the issuance of a Series of Bonds, to satisfy the following requirements in connection with the issuance of an additional Series of Intermediate Lien Obligations, other than Intermediate Lien Obligations to be incurred pursuant to Section 6.2 of this Tenth Series Supplement to rollover or refinance the 2023A Notes:

(i) unless such Series shall not be secured by or participating in a Debt Service Reserve Fund, there shall be or have been established in connection with such additional Intermediate Lien Obligations, an Intermediate Lien Debt Service Reserve Fund as provided in the Master Indenture,

(ii) HRTAC shall deliver to the Trustee an Officer's Certificate to the effect that the Intermediate Lien Debt Service Reserve Fund Requirement, calculated immediately after the issuance of such additional Series of Intermediate Lien Obligations, will be met effective upon the issuance of such additional Series of Intermediate Lien Obligations;

(iii) HRTAC shall deliver to the Trustee an Officer's Certificate (subject to the requirements of Section 5.4 of the Master Indenture, as applicable) to the effect that during [any twelve consecutive months of the eighteen months preceding the issuance of the Series of Bonds to be issued], the HRTAC Revenues were not less than [1.75] times the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on any Senior Bonds and Intermediate Lien Obligations then Outstanding plus the Series of Intermediate Lien Obligations to be issued; and

(iv) HRTAC shall deliver to the Trustee an Officer's Certificate demonstrating that, for each Fiscal Year while such Intermediate Lien Obligations will be Outstanding, HRTAC Revenues are projected by HRTAC to equal at least 1.35 times the annual aggregate Principal and Interest Requirements during the current or any future Fiscal Year on any Senior Bonds, Intermediate Lien Obligations, and Subordinate Lien Obligations then Outstanding plus the Series of Intermediate Lien Obligations to be issued. Such projections shall be in reasonable detail, may be made by HRTAC in consultation with the Virginia Department of Transportation, the Virginia Department of Taxation or other relevant state, regional or local agency, and may take into account the requirements of Section 5.3 of the Master Indenture, as applicable to the determination of Principal and Interest Requirements.]

Section 6.4 Tax Regulatory Agreement. (a) HRTAC agrees that it will not take any action, or omit to take any action, if any such action or omission would adversely affect the excludability from gross income of interest on the 2023A Notes under Section 103 of the Tax Code. HRTAC agrees that it will not directly or indirectly use or permit the use of any proceeds of the 2023A Notes or any other funds of HRTAC or take or omit to take any action that would cause the 2023A Notes to be "arbitrage bonds" under Section 148(a) of the Tax Code. To these ends, HRTAC will comply with all requirements of Sections 141 through 150 of the Tax Code, including the Rebate Requirement, to the extent applicable to the 2023A Notes.

(b) Without limiting the generality of the foregoing, HRTAC agrees that (i) it will not directly or indirectly use or permit the use of the proceeds of the 2023A Notes except in accordance with the 2023A Tax Regulatory Agreement and (ii) insofar as the 2023A Tax Regulatory Agreement imposes duties and responsibilities on HRTAC, the 2023A Tax Regulatory Agreement is specifically incorporated by reference into this Section.

(c) The Trustee agrees to comply with all written instructions of an HRTAC Representative given in accordance with the 2023A Tax Regulatory Agreement, but the Trustee shall not be required to ascertain whether the instructions comply with the 2023A Tax Regulatory Agreement. The Trustee shall be entitled to receive and may request from time to time from HRTAC written instructions from a nationally-recognized bond counsel acceptable to the Trustee regarding the interpretation of Sections 141 through 150 of the Tax Code, and the Trustee agrees

that it will comply with such instructions (upon which the Trustee and HRTAC may conclusively rely) so as to enable HRTAC to perform its covenants under this Section.

(d) Notwithstanding any provisions of this Section, if HRTAC shall provide to the Trustee an opinion of nationally-recognized bond counsel addressed and acceptable to HRTAC and the Trustee to the effect that any action required under this Section by incorporation or otherwise is not required or is no longer required to maintain the excludability from gross income of the interest on the 2023A Notes under Section 103 of the Tax Code, HRTAC and the Trustee may rely conclusively on such opinion in complying with the provisions of this Section.

ARTICLE VII MISCELLANEOUS

Section 7.1 Successors and Assigns. This Tenth Series Supplement is binding upon, inures to the benefit of and is enforceable by its parties and their respective successors and assigns.

Section 7.2 Severability. If any provision of this Tenth Series Supplement is held invalid by any court of competent jurisdiction, such holding will not invalidate any other provision.

Section 7.3 Governing Law. This Tenth Series Supplement will be governed by and construed under the applicable laws of the Commonwealth.

Section 7.4 Counterparts. This Tenth Series Supplement may be executed in several counterparts, each of which will be an original, and the counterparts will together constitute one and the same instrument.

Section 7.5 Parties Interested. Nothing in this Tenth Series Supplement expressed or implied is intended or will be construed to confer upon any Person, other than HRTAC, the Trustee and the Owners of the 2023A Notes, any right, remedy or claim under or by reason of this Tenth Series Supplement, this Tenth Series Supplement being intended for the sole and exclusive benefit of HRTAC, the Trustee and the Owners of the 2023A Notes.

[Signature Page Follows]

IN WITNESS WHEREOF, HRTAC and the Trustee have caused this Tenth Series Supplement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Richard W. West
Chair

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Joy Holloway
Vice President

EXHIBIT A

DESCRIPTION OF 2023A NOTES PROJECT

[All or a portion of Segment 4C of the Hampton Roads Express Lanes Network Project, which includes a network of planned contiguous high-occupancy toll lanes or other dynamically-priced travel 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 high occupancy lane travel throughout such corridor.]

EXHIBIT B
FORM OF 2023A NOTE

REGISTERED
RA-1

CUSIP

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION
HAMPTON ROADS TRANSPORTATION FUND
INTERMEDIATE LIEN BOND ANTICIPATION NOTE
SERIES 2023A

INTEREST RATE	MATURITY DATE	DATED DATE/EFFECTIVE DATE
_____%	_____, 20__	_____, 2023

REGISTERED OWNER: CEDE & CO

PRINCIPAL AMOUNT: _____ (\$_____)

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION, a body politic and a political subdivision of the Commonwealth of Virginia (“HRTAC”), acknowledges itself indebted and for value received promises to pay upon surrender of this Note (defined herein) at the corporate trust office of **WILMINGTON TRUST, NATIONAL ASSOCIATION**, or its successor, as trustee and paying agent (the “Trustee”) under the Indenture (as defined below), to the registered owner of this Note (the “Owner”), or registered assigns or legal representative, the principal sum stated above on the maturity date stated above, and to pay interest on this Note semiannually on each January 1 and July 1, commencing _____ 1, 2023, at the annual rate stated above, solely from the sources pledged for such purpose as described below. The principal of and premium, if any, and interest on this Note are payable in lawful money of the United States of America.

“Indenture” means the Master Indenture of Trust dated as of February 1, 2018 (the “Master Indenture”), between HRTAC and Wilmington Trust, National Association, or its successor, as trustee (the “Trustee”), as amended and supplemented by the First Supplemental Series Indenture of Trust dated as of February 1, 2018, the Second Supplemental Series Indenture of Trust dated as of December 1, 2019, the Third Supplemental Series Indenture of Trust dated as of December 15, 2019, the Fourth Supplemental Series Indenture of Trust dated as of October 1, 2020, the Fifth Supplemental Series Indenture of Trust dated as of September 1, 2021, the Sixth Supplemental Series Indenture of Trust dated as of September 15, 2021, the Seventh Supplemental Series Indenture of Trust dated as of September 21, 2021, the Eighth Supplemental Series Indenture of Trust dated as of May 1, 2022, the Ninth Supplemental Series Indenture of Trust dated as of

_____, 2023, and the Tenth Supplemental Series Indenture of Trust dated as _____, 2023.

Unless otherwise defined, each capitalized term used in this Note has the meaning given it in the Indenture.

Interest is payable (i) from the dated date set forth above (the “Dated Date”), if this Note is authenticated before _____ 1, 20____, or (ii) otherwise from the Interest Payment Date that is, or immediately precedes, the date on which this Note is authenticated (unless payment of interest on this Note is in default, in which case this Note shall bear interest from the date to which interest has been paid). Interest on this Note is computed on the basis of a year of 360 days and twelve 30-day months.

Interest is payable by check or draft mailed to the holder of this Note at the address that appears on the fifteenth day of the month preceding each Interest Payment Date on the registration books kept by the Trustee. Notwithstanding the foregoing, if (i) the Owner of this Note owns at least \$1,000,000 in aggregate principal amount of Notes (as defined below), and (ii) such Owner has provided satisfactory prior notice to the Trustee regarding payment by wire transfer, then interest shall be paid to such Owner by wire transfer. Notwithstanding anything to the contrary contained in this Note or in the Indenture, for so long as Cede & Co. or any other nominee of The Depository Trust Company (“DTC”) is the Owner of all of the Notes, the principal of and premium, if any, and interest on this Note shall be payable pursuant to the additional requirements provided under the Letter of Representations.

If the date of maturity of the principal of this Note or the date fixed for the payment of interest on this Note shall not be a Business Day, then payment of principal, premium, if any, and interest need not be made on such date, but may be made on the next succeeding Business Day, and, if made on such next succeeding Business Day, no additional interest shall accrue for the period after such date of maturity or date fixed for the payment of interest.

This Note and the issue of which it is a part and the premium, if any, and the interest on them are limited obligations of HRTAC and payable solely from the revenues, moneys and other property pledged to the Trustee for such purpose under the Indenture on a parity with the other Notes issued simultaneously herewith and the other Outstanding Intermediate Lien Obligations now or hereafter to be issued under the Indenture. THE PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF (INCLUDING ANY MEMBER LOCALITY) OTHER THAN HRTAC. THIS NOTE SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY DEBT LIMITATION OR RESTRICTION EXCEPT AS PROVIDED UNDER THE APPLICABLE PROVISIONS OF THE VIRGINIA CODE.

This Note is one of an issue of \$_____ Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A (the “Notes”), of like date and tenor, except as to number, denomination, rate of interest, and maturity, authorized and issued by HRTAC pursuant to Chapter 26, Title 33.2, Code of Virginia of 1950, as amended, resolutions adopted by HRTAC on June 16, 2016, December 14, 2017, and _____, 2023, and the

Indenture, to provide proceeds to be used, along with other available funds, to pay the issuance and financing costs of the Notes, to pay the costs of the construction and acquisition of the transportation facilities and projects described in Exhibit A to the Tenth Series Supplement, and to pay certain capitalized interest on the Notes. The Notes are issued as and constitute Intermediate Lien Obligations within the meaning of such term in the Indenture.

Reference is made to the Indenture and all amendments and supplements to it for a description of the provisions, among others, with respect to the nature and extent of the security for the Notes, the rights, duties and obligations of HRTAC and the Trustee, the rights of the Owners of the Notes and the terms upon which the Notes are issued and secured. HRTAC's authority to receive any or all of the taxes or other revenues pledged to the Trustee for payment of the Notes pursuant to the Indenture is subject to appropriation by the General Assembly of the Commonwealth, and neither the General Assembly nor HRTAC can or will pledge, covenant or agree to impose or maintain at any particular rate or level any of such taxes or other revenues.

HRTAC may from time to time hereafter issue additional bonds ranking senior to, equally with or subordinate to the Notes for certain purposes on the terms provided in the Indenture.

The Owner of this Note shall have no right to enforce the provisions of the Indenture or to take any action with respect to any Event of Default under the Indenture or to institute, appear in or defend any suit or other proceedings with respect to it, except as provided in the Indenture.

Modifications or alterations of the Indenture, or of any supplement to it, may be made only to the extent and in the circumstances permitted by the Indenture.

The Notes are issuable as registered bonds in denominations of \$5,000 and integral multiples of \$5,000. Upon surrender for transfer or exchange of this Note at the Trustee's designated corporate trust office, HRTAC shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees or Owner, as applicable, a new Note or Notes of like date, tenor and of any authorized denomination for the aggregate principal amount any such transferee or Owner is entitled to receive, subject in each case to such reasonable regulations as HRTAC or the Trustee may prescribe. When presented for transfer, exchange, or payment, this Note must be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to HRTAC and the Trustee, duly executed by the Owner or by his or her duly authorized attorney-in-fact or legal representative. Any such transfer or exchange shall be at HRTAC's expense, except that the Trustee may charge the person requesting such transfer or exchange the amount of any tax or other governmental charge required to be paid with respect to it.

The Owner of this Note shall be treated as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the Owner, except that interest payments shall be made to the person registered as Owner on the fifteenth day of the month preceding each Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Note have happened, exist and have been performed.

This Note shall not become obligatory for any purpose, be entitled to any security or benefit under the Indenture or be valid until the Trustee has executed the Certificate of Authentication appearing on this Note and inserted the date of authentication.

[Signature Page Follows]

IN WITNESS WHEREOF, the Hampton Roads Transportation Accountability Commission has caused this Note to be signed by the manual or facsimile signature of its Chair, to be attested by the manual or facsimile signature of its Executive Director and this Note to be dated the Effective Date set forth above.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Richard W. West
Chair

ATTEST:

By: _____
Kevin B. Page
Executive Director

* * * * *

CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the above-mentioned Indenture.

Authentication Date: _____, 2023

**WILMINGTON TRUST, NATIONAL
ASSOCIATION**, as Trustee

By: _____
Joy Holloway
Vice President

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF TRANSFEREE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE OF
TRANSFEREE)

this Note and all rights under it, and irrevocably constitutes and appoints
_____, attorney, to transfer this Note on the books kept for its
registration, with full power of substitution.

Dated: _____

Tax I.D. No. _____

Signature Guaranteed:

(NOTE: The signature of the registered owner
or owners must be guaranteed by an Eligible
Guarantor Institution such as a Commercial
Bank, Trust Company, Securities
Broker/Dealer, Credit Union or Savings
Association which is a member of a medallion
program approved by The Securities Transfer
Association, Inc.)

Registered Owner
(NOTE: The signature above must correspond
exactly with must correspond exactly with the
name of the registered owner as it appears on the
front of this Note.)

EXHIBIT C-1

**FORM OF
2023A COST OF ISSUANCE FUND REQUISITION**

Wilmington Trust, National Association, as Trustee

Requisition No. _____

Attn: _____

Dated: _____

Re: Direction to Make Disbursements from the 2023A Cost of Issuance Fund for the HRTAC Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes

Pursuant to Section 5.1 of the Tenth Supplemental Series Indenture of Trust dated as of _____, 2023 (the “Tenth Series Supplement”), between the Hampton Roads Transportation Accountability Commission (“HRTAC”), and Wilmington Trust, National Association, as trustee (the “Trustee”), the Trustee is directed to disburse from the 2023A Cost of Issuance Fund the amount indicated below.

Each capitalized terms not otherwise defined herein has the same meaning as used in the Tenth Series Supplement.

The undersigned certifies as follows:

1. The name(s) and address(es) of the person(s), firm(s) or corporation(s) to whom the disbursement(s) are due and the amounts to be disbursed are as follows:

Name and Address

Amount

[Use an additional page if necessary.]

2. The total amount to be disbursed is \$_____.

3. The undersigned is a “HRTAC Representative” within the meaning of the Tenth Series Supplement and the Master Indenture defined therein.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
HRTAC Representative

EXHIBIT C-2

**FORM OF
2023A PROJECT FUND REQUISITION**

Wilmington Trust, National Association, as Trustee

Requisition No. _____

Dated: _____

Attn: _____

Re: Direction to Make Disbursements from the 2023A Project Fund for the HRTAC
Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes

Pursuant to Section 5.2 of the Tenth Supplemental Series Indenture of Trust dated as of _____, 2023 (the "Tenth Series Supplement"), between the Hampton Roads Transportation Accountability Commission ("HRTAC"), and Wilmington Trust, National Association, as trustee (the "Trustee"), the Trustee is directed to disburse from the 2023A Project Fund the amount indicated below.

Each capitalized terms not otherwise defined herein has the same meaning as used in the Tenth Series Supplement.

The undersigned certifies as follows:

1. The name(s) and address(es) of the person(s), firm(s) or corporation(s) to whom the disbursement(s) are due and the amounts to be disbursed are as follows:

Name and Address

Amount

[Use an additional page if necessary.]

2. The total amount to be disbursed is \$ _____.
3. The project for which the obligation(s) to be paid was/were incurred:
_____.
4. The undersigned is a "HRTAC Representative" within the meaning of the Tenth Series Supplement and the Master Indenture defined therein.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
HRTAC Representative

**HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION
HAMPTON ROADS TRANSPORTATION FUND
INTERMEDIATE LIEN BOND ANTICIPATION NOTES
SERIES 2023A**

BOND PURCHASE AGREEMENT

[October] [__], 2023

Hampton Roads Transportation
Accountability Commission
Chesapeake, Virginia

Ladies and Gentlemen:

The undersigned Wells Fargo Bank, National Association, acting on behalf of itself and as representative (the “Representative”) of [BofA Securities, Inc., J.P. Morgan Securities LLC, Loop Capital Markets LLC, and Siebert Williams Shank & Co., LLC] (collectively, the “Underwriters”), hereby offers to enter into this Bond Purchase Agreement (this “Agreement”) with the Hampton Roads Transportation Accountability Commission, a political subdivision of the Commonwealth of Virginia (the “Commission”), for the sale by the Commission and purchase by the Underwriters of \$_____.00 in aggregate principal amount of the Commission’s Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A (the “Notes”). The Underwriters are making this offer subject to acceptance by the Commission of this Agreement, which acceptance shall be evidenced by the execution and delivery of this Agreement by a duly authorized officer of the Commission, prior to 9:00 p.m., Eastern Time, on the date hereof and, upon such acceptance, execution and delivery, this Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Commission and the Underwriters, subject to Section 10 hereof. The Underwriters may withdraw this Agreement upon written notice delivered by the Representative to the Executive Director of the Commission at any time prior to the acceptance of this Agreement by the Commission.

Capitalized terms used but not defined herein shall have the meanings assigned thereto in the Official Statement (as defined in Section 5 hereof).

1. **Purchase and Sale of Notes.** Upon the terms and conditions and in reliance on the representations, warranties, and covenants contained in this Agreement, the Underwriters hereby agree to purchase from the Commission, and the Commission hereby agrees to sell and deliver to the Underwriters, all (but not less than all) of the Notes at the purchase price of \$_____. (representing the sum of the par amount of the Notes, [plus] [net] original issue [premium] of \$_____., less an underwriting discount of \$_____.) (the “Purchase Price”). The Purchase Price shall be payable to the Commission on the Closing Date (as defined herein), by wire transfer of Federal Funds as provided in Section 8 below.

The Underwriters intend to make an initial bona fide public offering of all of the Notes of each maturity/CUSIP at a price not in excess of the respective initial offering price set forth in the front portion of the Official Statement and Schedule I attached hereto; provided, however, after such bona fide public offering the Underwriters may change such prices as they may deem necessary or desirable in connection with the offering and sale of the Notes and to sell the Notes to dealers (including dealer banks and dealers depositing the Notes into investment trusts) and others at prices higher than the initial offering prices indicated in the Official Statement (but in all case subject to the requirements of Section 6 hereof). As used in this paragraph the term “public” means the general public of investors who are purchasing for their own account as ultimate purchasers and does not include bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers, including any of the Underwriters, any affiliates or affiliated accounts of any of the Underwriters, or dealers (including dealer banks and dealers depositing the Notes into investment trusts). The Underwriters agree that the Notes will only be offered pursuant to the Official Statement and only in jurisdictions where such offer is legal, and that a copy of the final version of the Official Statement will be delivered to each purchaser of the Notes.

2. **No Advisory or Fiduciary Role.** The Commission acknowledges and agrees that each of the Underwriters is acting as a principal and not as agent, municipal advisor or fiduciary, and each Underwriter’s engagement under the terms set forth herein is as an independent contractor and not in any other capacity. The Commission acknowledges and agrees with the Underwriters that (i) the Underwriters are not acting as municipal advisors within the meaning of Section 15B of the Securities Exchange Act, as amended, (ii) the purchase and sale of the Notes pursuant to this Agreement is an arm’s-length commercial transaction among the Commission and the Underwriters; (iii) each Underwriter is and has been acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary of the Commission and has not assumed an advisory or fiduciary responsibility in favor of the Commission with respect to the transaction contemplated hereby or the discussions, undertakings, and procedures leading thereto (irrespective of whether such Underwriter has provided other services or is currently providing other services to the Commission on other matters); (iv) none of the Underwriters has any obligation to the Commission with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement; and (v) the Commission has consulted its own legal, financial and/or municipal, accounting, tax and other advisors, as applicable, to the extent it has deemed appropriate. The primary role of Wells Fargo Bank, NA, acting through the Wells Fargo Bank, NA Municipal Finance Group, which conducts municipal securities sales, trading and underwriting operations on behalf of Wells Fargo Bank, NA, as underwriter, is to purchase the Notes for resale to investors, in an arm’s-length commercial transaction between the Commission and Wells Fargo Bank, NA. Wells Fargo Bank, NA, as underwriter, has financial and other interests that differ from those of the Commission.

3. **Good Faith Deposit.** The Representative has delivered to the Commission, and the Commission acknowledges receipt of, a wire transfer in the aggregate amount of \$_____.00, representing the good faith deposit of the Underwriters. At the Closing (hereinafter defined in Section 8 below), the good faith deposit, exclusive of any interest earned on such amount which shall accrue to the benefit of the Commission, will be deducted from the amount payable by the Underwriters with respect to the aggregate purchase price of the Notes (and applied by the Commission as proceeds of the Notes), and, accordingly, the Underwriters will pay

\$ _____. (representing the \$ _____ purchase price, less the \$ _____.00 good faith deposit). If the Commission fails to deliver the Notes at the Closing, or if the Commission is unable on or before the Closing to satisfy the conditions to the Underwriters' obligations contained in this Agreement, or if the obligations of the Underwriters are terminated for any reason permitted by this Agreement, the good faith deposit (with no credit for interest thereon) will be returned to the Representative. If the Underwriters fail (other than for a reason permitted in this Agreement) to accept delivery of and pay for the Notes as provided in this Agreement, the good faith deposit will be retained by the Commission as full liquidated damages for such failure and for any and all defaults on the part of the Underwriters, and the delivery of the good faith deposit will constitute satisfaction, and will result in full release and discharge of the Underwriters and their affiliates from all claims and damages for such failure and for any and all defaults. The Underwriters and the Commission understand that in such event the actual damages of the Commission may be greater or may be less than the good faith deposit. Accordingly, in such event, the Underwriters hereby waive any right to claim that the actual damages of the Commission are less than the good faith deposit, and the acceptance of this Agreement by the Commission shall constitute a waiver of any right the Commission may have to additional damages from the Underwriters.

4. **Background.** The Notes are authorized to be issued pursuant to the provisions of Chapter 26 of Title 33.2 of the Code of Virginia of 1950, as amended (the "HRTAC Act"), a resolution adopted by the Commission on September 21, 2023 (the "Bond Resolution"), the Master Trust Indenture dated as of February 1, 2018, by and between the Commission and Wilmington Trust, National Association, as trustee (the "Trustee"), as previously supplemented and amended (the "Master Indenture"), and the Tenth Supplemental Series Indenture of Trust dated as of _____ 1, 2023, between the Commission and the Trustee (the "Tenth Supplemental Indenture"). The Commission will use the proceeds from the sale of the Notes primarily to finance costs of certain Commission projects as described in Exhibit A to the Tenth Supplement, in anticipation of the proceeds to be received by the Commission from disbursements under that certain TIFIA Loan Agreement (the "TIFIA Loan Agreement") attached as Exhibit A to the Ninth Supplemental Series Indenture of Trust dated as of _____ 1, 2023, between the Commission and the Trustee (the "Ninth Supplemental Indenture" and, collectively with the Master Indenture and the Tenth Supplemental Indenture, the "Indenture"). The Notes shall be as described in, authorized by, and issued and secured under the Indenture, shall be dated the date of delivery, shall bear interest at the rates and mature in principal amounts as described in the hereinafter defined Official Statement and in Schedule I attached hereto. The Notes are limited obligations of the Commission that are payable solely from the funds pledged under the Indenture for such purpose and constitute Intermediate Lien Obligations under such Indenture. The Notes are not a debt of the Commonwealth or any political subdivision thereof (including any member locality of the Commission) other than the Commission, and the Notes do not constitute indebtedness within the meaning of any debt limitation or restriction. Neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions (including any member locality of the Commission) is pledged to the payment of the Notes. The Commission has no taxing powers.

5. **Delivery of Official Statement and Other Documents.**

(a) The Commission has previously delivered to the Representative a Preliminary Official Statement dated [September] [____], 2023, with respect to the Notes (the "Preliminary Official Statement"), in electronic form, and represents that the Preliminary

Official Statement was deemed final by the Commission as of its date for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the “Rule”), except for the omission of such information as is specified under the Rule. The Commission ratifies, confirms and consents to the use of the Preliminary Official Statement and the final Official Statement (as defined below) by the Underwriters prior to the date hereof.

(b) Within seven (7) business days from the date hereof and, in any event, unless otherwise agreed to by the parties hereto, at least three (3) business days prior to Closing (as hereinafter defined), the Commission will deliver to the Underwriters copies of the final Official Statement relating to the Notes (such Official Statement, including the cover page and inside cover pages, and all appendices and statements included therein, incorporated by reference therein or attached thereto, together with all information previously permitted to have been omitted by Rule 15c2-12 and any supplements thereto, as have been approved by the Commission and the Representative, being hereinafter referred to as the “Official Statement”), in electronic word-searchable portable document format and dated the date hereof, in sufficient quantities to enable the Underwriters to comply with the Rule and other applicable rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board (the “MSRB”) and to meet potential customer request for copies of the Official Statement. The Official Statement shall be executed by and on behalf of the Commission by an authorized officer of the Commission. The Official Statement shall be in substantially the same form as the Preliminary Official Statement and, other than information previously permitted to have been omitted by the Rule, the Commission shall only make such other additions, deletions and revisions in the Official Statement which are approved by the Representative. By execution and delivery thereof by its Executive Director, the Commission shall deem the Official Statement complete as of its date within the meaning of the Rule. The Commission authorizes and consents to the use by the Underwriters of the Official Statement and the Indenture in connection with the public offering and sale of the Notes.

(c) The Representative shall submit a copy of the Official Statement to the MSRB’s Electronic Municipal Market Access System for municipal securities disclosures.

(d) The Commission agrees that it will cooperate with the Representative in the qualification of the Notes for offering and sale and the determination of their eligibility for investment under the securities or “blue sky” laws of such jurisdictions as the Representative may designate; provided, however, the Commission shall not be required to register as a dealer or broker in any such jurisdiction, execute a general or special consent to service of process or qualify to do business in connection with any such qualification of the Notes in any jurisdiction other than Virginia, nor incur any costs or fees in connection with such qualification of the Notes.

(e) To assist the Underwriters in complying with the Rule, the Commission (i) has executed and delivered a Rule 15c2-12 Compliance Certificate dated [October] [___], 2023 (the “Rule 15c2-12 Compliance Certificate”); and (ii) will execute and deliver a Continuing Disclosure Undertaking dated _____, 2023 (the “Continuing Disclosure Undertaking”) wherein the Commission will agree to provide annual financial information and operating data, and notices of the occurrence of certain specified events. The

Continuing Disclosure Undertaking is described in, and a form thereof is attached as an Appendix to, the Preliminary Official Statement and shall also be included in the Official Statement.

(f) The Commission covenants and agrees to promptly notify the Representative if, during the period commencing on the date hereof through the date twenty-five (25) days after the “end of the underwriting period,” as hereinafter defined, any event shall occur including, but not limited to, any material adverse change in the financial position, results of operations or condition, financial or otherwise, of the Commission, and of which the Commission has knowledge, that would cause the Official Statement to contain any untrue or incorrect statement of a material fact or to omit to state a material fact which should be included therein for the purpose for which the Official Statement is to be used or which is necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading (provided, however, no representation or warranty is made as to any of the information described in the provisos of Section 7(k) or Section 7(l) herein), and, if in the reasonable opinion of the Representative such event requires any amendment or supplement to the Official Statement, the Commission will at the Commission’s expense promptly amend or supplement the Official Statement in a form and manner jointly approved by the Commission and the Representative. The “end of the underwriting period” means the Closing Date unless the Representative advises the Commission in writing on such Closing Date that as of such date there remains an unsold balance of the Notes, in which case the “end of the underwriting period” means the date as of which the Representative notifies the Commission that the Underwriters no longer retain an unsold balance of the Notes for sale to the public.

6. Establishment of Issue Price.

(a) The Representative on behalf of itself and the other Underwriters, agrees to assist the Commission in establishing the issue price of the Notes, and shall execute and deliver to the Commission and Kaufman & Canoles, a Professional Corporation (“Bond Counsel”), on the Closing Date an “issue price” certificate, together with supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit D (the “Issue Price Certificate”), with such modifications as may be appropriate or necessary, in the reasonable judgment of the Representative, the Commission and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Notes.

(b) Except as otherwise set forth in Exhibit D attached hereto, the Commission represents that it will treat the first price at which 10% of each maturity/CUSIP of the Notes (the “10% Test”) is sold to the public as the issue price of that maturity/CUSIP. At or promptly after the execution of this Agreement, the Representative shall report to the Commission the price or prices at which the Underwriters have sold to the public each maturity/CUSIP of the Notes. If at the time the 10% Test has not been satisfied as to any maturity/CUSIP of the Notes, the Representative agrees to promptly report to the Commission the prices at which Notes of that maturity/CUSIP have been sold by the Underwriters to the public. That reporting obligation shall continue until the earlier of the

date upon which the 10% Test has been satisfied as to the Notes of that maturity/CUSIP or the Closing Date.

(c) The Representative confirms that the Underwriters have offered the Notes to the public on or before the date of this Agreement at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Exhibit D attached hereto, except as otherwise set forth therein. Exhibit D also sets forth, as of the date of this Agreement, the maturities/CUSIPs, if any, of the Notes for which the 10% Test has not been satisfied and for which the Commission and the Representative, on behalf of itself and the other Underwriters, agree that the restrictions set forth in the next sentence shall apply, which will allow the Commission to treat the initial offering price to the public of each such maturity/CUSIP as of the sale date as the issue price of that maturity/CUSIP (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity/CUSIP of the Notes, the Representative will neither offer nor sell unsold Notes of that maturity/CUSIP to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the Underwriters have sold at least 10% of that maturity/CUSIP of the Notes to the public at a price that is no higher than the initial offering price to the public.

The Representative will advise the Commission promptly after the close of the fifth (5th) business day after the sale date whether the Underwriters have sold 10% of that maturity/CUSIP of the Notes to the public at a price that is no higher than the initial offering price to the public.

(d) The Representative confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the Representative is a party) relating to the initial sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group and each broker-dealer that is a party to such third-party distribution agreement, as applicable:

(A)(i) to report the prices at which it sells to the public the unsold Notes of each maturity/CUSIP allocated to it, whether or not the Closing Date has occurred, until either all Notes of that maturity/CUSIP allocated to it have been sold or it is notified by the Representative that the 10% Test has been satisfied as to the Notes of that maturity/CUSIP, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the Representative, and (ii) to comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative and as set forth in the related pricing wires,

(B) to promptly notify the Representative of any sales of Notes that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Notes to the public (each such term being used as defined below), and

(C) to acknowledge that, unless otherwise advised by the Underwriter, dealer or broker-dealer, the Representative shall assume that each order submitted by the Underwriter, dealer or broker-dealer is a sale to the public.

(ii) any agreement among underwriters and any selling group agreement relating to the initial sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Notes to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Notes of each maturity/CUSIP allocated to it, whether or not the Closing Date has occurred, until either all Notes of that maturity/CUSIP allocated to it have been sold or it is notified by the Representative or such Underwriter or dealer that the 10% Test has been satisfied as to the Notes of that maturity/CUSIP, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the Representative or such Underwriter or dealer, and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative or the Underwriter or the dealer and as set forth in the related pricing wires.

(e) The Commission acknowledges that, in making the representations set forth in this section, the Representative will rely on (i) the agreement of each Underwriter to comply with the requirements for establishing issue price of the Notes, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Notes, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Notes to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Notes, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Notes, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Notes to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Notes, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Notes, as set forth in the third-party distribution agreement and the related pricing wires. The Commission further acknowledges that each Underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the Notes, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Notes, and that no Underwriter shall be liable for the failure of any other Underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution

agreement, to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Notes, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Notes.

(f) The Underwriters acknowledge that sales of any Notes to any person that is a related party to an underwriter participating in the initial sale of the Notes to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

- (i) “public” means any person other than an underwriter or a related party to an underwriter,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Commission (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Notes to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Notes to the public),
- (iii) a purchaser of any of the Notes is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than fifty percent (50%) common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than fifty percent (50%) common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than fifty percent (50%) common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (iv) “sale date” means the date of execution of this Agreement by all parties.

7. **Representations, Warranties and Covenants of the Commission.** By the Commission’s acceptance hereof, it hereby represents, warrants and covenants to the Underwriters, as of the date of this Agreement (and it shall be a condition of the obligation of the Underwriters to purchase and accept delivery of the Notes at the Closing that the Commission shall so represent and warrant as of the Closing Date), that:

(a) The Commission is a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) duly created and validly existing under the laws of the Commonwealth;

(b) The Commission has complied with all applicable provisions of the Constitution and laws of the Commonwealth, including the HRTAC Act, with respect to

the consummation of, and has full power and authority to consummate, all transactions contemplated by this Agreement, the Indenture, the Continuing Disclosure Undertaking, and the Official Statement (collectively, the “Commission Documents”) and any other agreements and instruments relating thereto;

(c) The Commission is authorized under the provisions of the HRTAC Act to issue the Notes for the purposes described in the Indenture and the Official Statement;

(d) The Bond Resolution has duly and validly authorized all necessary action to be taken by the Commission for (i) the issuance, sale, and delivery of the Notes upon the terms set forth herein, (ii) the execution, delivery, and performance of the Commission Documents, which provide for the issuance and delivery of and security for the Notes, (iii) the carrying out, giving effect to, and consummation of the transactions contemplated hereby and (iv) to the distribution by the Underwriters of the Preliminary Official Statement and the Official Statement;

(e) All conditions precedent set forth in the Bond Resolution for the issuance of the Notes have been satisfied or will be satisfied as of the Closing Date;

(f) The Commission Documents, when executed by the other parties thereto, if any, will have been duly and validly executed and delivered by the Commission and will be in full force and effect as to the Commission, and such Commission Documents constitute legal, valid and binding obligations of the Commission, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights; and the Notes, when issued, authenticated and delivered to the Underwriters in accordance with the Bond Resolution and the Indenture will constitute legal, valid and binding limited obligations of the Commission enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors’ rights;

(g) Except as described in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency or public board or body, pending or, to the best knowledge of the Commission, threatened against the Commission (i) which may affect the existence of the Commission or the titles or rights of its officers to their respective offices, (ii) which may affect or which seeks to prohibit, restrain or enjoin (A) the sale, issuance, authentication or delivery of the Notes or (B) the collection or payment of HRTAC Revenues or the pledge and assignment thereof by the Commission to make payments on the Notes, (iii) which in any way contests or affects the validity or enforceability of the Commission Documents, (iv) which contests in any way the completeness or accuracy of the Official Statement, or (v) which contests the powers of the Commission or, to the best knowledge of the Commission, any authority or proceedings for the issuance, authentication, sale or delivery of the Notes, the Commission Documents or any of them or the transactions contemplated thereby, nor, to the best knowledge of the Commission, is there any basis therefor wherein

an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Notes or any of the Commission Documents;

(h) The Commission is not in breach of or default under any constitutional provision, law or administrative regulation of the Commonwealth of Virginia or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, ordinance, resolution, agreement or other instrument to which the Commission is a party or to which the Commission or any of its property or assets are otherwise subject, and no event has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the Commission under any such instrument; and the execution and delivery of this Agreement and the other Commission Documents, and the Commission's compliance with the provisions hereof and thereof, under the circumstances contemplated hereby, will not conflict with or constitute on the part of the Commission a violation of, breach of, or default under (i) the HRTAC Act, (ii) in any material respect, any indenture, mortgage, lease or note agreement, or any other agreement or instrument to which the Commission is a party or by which the Commission is bound, or (iii) any constitutional provision or statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Commission or any of its activities or properties;

(i) All consents, approvals, authorizations and orders of governmental or regulatory authorities that are required to be obtained by the Commission in connection with the execution and delivery of this Agreement and the other Commission Documents and the consummation of the transactions contemplated thereby to be consummated on or before the Closing Date have been or will be, at Closing, duly obtained and in full force and effect; provided, that no representation or warranty is expressed as to any action required under applicable federal or state securities laws or "blue sky" laws of any jurisdiction in connection with the issuance and sale of the Notes;

(j) The Notes conform to the descriptions thereof contained in the Official Statement under the captions "INTRODUCTION," "DESCRIPTION OF THE SERIES 2023A NOTES," and "SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES"; the Continuing Disclosure Undertaking conforms to the description thereof contained in the Official Statement under the caption "CONTINUING DISCLOSURE" and in APPENDIX C; and the proceeds of the sale of the Notes will be applied generally as described in the Official Statement under the caption "DESCRIPTION OF THE SERIES 2023A NOTES – Estimated Sources and Uses of Funds";

(k) Except for information which is permitted to be omitted pursuant to the Rule, the Preliminary Official Statement, as of its date and as of the date hereof, was and is true and correct in all material respects and did not and does not contain any untrue or misleading statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to information in the Preliminary Official Statement (A) with respect to overallotment and stabilization, (B) under the captions "TAX MATTERS," "FINANCIAL ADVISOR," and "UNDERWRITING," and (C) in APPENDICES F and G;

(l) The Official Statement is, as of its date, and at all times after the date of the Official Statement up to and including the Closing Date will be, true and correct in all material respects and does not and will not contain any untrue or misleading statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to information in the Official Statement (A) with respect to overallotment and stabilization, (B) under the captions “TAX MATTERS,” “FINANCIAL ADVISOR,” and “UNDERWRITING,” and (C) in APPENDICES F and G;

(m) The Commission certifies that it has either received the consent of the Commission’s independent auditor, [PBMares, LLP], to the inclusion of the audited financial statements set forth in APPENDIX B to the Preliminary Official Statement and the Official Statement (the “Financial Statements”), or that such consent is not required;

(n) At the time of the Commission’s acceptance hereof and (unless an event occurs of the nature described in Section 5(f)) at all times subsequent hereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, as defined in Section 5(f), the Official Statement did not and will not contain any untrue or misleading statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to any of the information described in the provisos of paragraph (k) and (l) above;

(o) If the Official Statement is supplemented or amended pursuant to Section 5(f), at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to Section 5(f)) at all times subsequent thereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, the Official Statement as so supplemented or amended will not contain any untrue or misleading statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, no representation or warranty is made as to any of the information described in the provisos of paragraphs (k) and (l) above;

(p) The Financial Statements and other financial information regarding the Commission contained in the Preliminary Official Statement and the Official Statement have been prepared in all material respects on a consistent basis (except as described in the Preliminary Official Statement and the Official Statement) in accordance with generally accepted accounting principles applicable to the financial reporting of governmental entities and present fairly the financial position and results of operations of the Commission as of the dates and for the periods therein indicated;

(q) The Commission has the legal authority to apply and will apply, or cause to be applied, the proceeds from the sale of the Notes as provided in, and subject to all of the terms and provisions of the Indenture, and will not take or omit to take any action which

action or omission would adversely affect the excludability from gross income for federal income tax purposes of the interest on the Notes;

(r) Prior to the Closing, the Commission will not take any action within or under its control that would cause any adverse change of a material nature in such financial position, results of operations or condition of the Commission;

(s) Neither the SEC nor any state securities commission has issued or, to the best of the Commission's knowledge, threatened to issue any order preventing or suspending the use of the Preliminary Official Statement, which has been "deemed final" by the Commission under the Rule, or the Official Statement;

(t) Except as set forth in the Preliminary Official Statement and the Official Statement, the Commission has not failed during the previous five (5) years to comply in all material respects with any previous undertakings in a written continuing disclosure contract or agreement under the Rule;

(u) No person, whether generally or through an enterprise, fund, or account of such person, other than the Commission, is committed by contract or other arrangement structured to support payment of all, or part, of the obligations on the Notes for purposes of and within the meaning of the Rule;

(v) Any certificate signed by any of the Commission's authorized officers and delivered to the Representative shall be deemed a representation and warranty by it to the Underwriters as to the statements made therein; and

(w) Between the date hereof and the time of the Closing, except pursuant to the Ninth Supplemental Indenture and the TIFIA Loan Agreement, the Commission shall not, without the prior written consent of the Representative, offer or issue in any material amount any bonds, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, except in the course of normal business operations of the Commission or except for such borrowings as may be described in or contemplated by the Official Statement.

All representations, warranties and agreements of the Commission shall remain operative and in full force and effect, regardless of any investigations made by any Underwriter or on an Underwriter's behalf, and shall survive the delivery of the Notes.

8. **Closing.** At or before 2:00 p.m., Eastern Time, on _____, 2023, or at such other time or at such other date as shall have been mutually agreed upon by the Commission and the Representative (the "Closing Date" or the "Closing"), (a) the Commission will deliver the Notes to the Underwriters, in definitive form and duly executed and authenticated, in such authorized denominations and registered in such names as the Underwriters may request through the FAST system of registration with The Depository Trust Company ("DTC"), New York, New York, at the offices of the Trustee, (b) the Commission will deliver to the Representative the closing documents hereinafter mentioned and (c) the Underwriters will accept such delivery and pay the Purchase Price of the Notes as set forth in Section 1 hereof by wire transfer of Federal Funds to or as directed by the Commission for deposit in the various funds established under the

Indenture. Delivery of the other documents as aforesaid shall be made at the offices of Bond Counsel or at such other location as shall have been mutually agreed upon by the Commission and the Representative. The Notes shall bear proper CUSIP numbers and shall be in typewritten form, with a single certificate for each maturity of the Notes (or each Note with a separate interest rate for the same maturity), in a principal amount equal to the principal amount to be paid at the maturity thereof. The Notes shall be registered in the name of Cede & Co., as nominee of DTC and will be made available for inspection and checking by the Underwriters at the offices of the Trustee in Richmond, Virginia, not later than the business day prior to the Closing Date. It is anticipated that CUSIP identification numbers will be printed on each Note, but neither the failure to print the numbers on any Note nor any error in the numbers or the printing will constitute cause for a failure or refusal by the Underwriters to accept delivery and pay the Purchase Price.

9. **Conditions Precedent to the Underwriters' Obligations.** The Underwriters have entered into this Agreement in reliance upon the Commission's representations and warranties and subject to the Commission's performance of its obligations hereunder, both as of the date hereof and as of the date of the Closing. The Underwriters' obligations under this Agreement are and shall be subject to the following further conditions:

(a) The TIFIA Loan Agreement shall have been executed and delivered, the conditions precedent to its effectiveness set forth therein shall have been met, the interest rate on the TIFIA Loan Agreement shall have been established, and the Commission shall have performed all of its obligations required to be performed so that the TIFIA Loan will be in full force and effect on the Closing Date;

(b) At the time of the Closing, the Bond Resolution and the Commission Documents shall be in full force and effect and shall not have been repealed, amended, modified or supplemented in any material respect since the date of this Agreement unless agreed to by the Representative;

(c) There shall not have occurred any material change, or any development involving a material change, in or affecting the activities, properties, revenues or financial condition of the Commission from that described in the Preliminary Official Statement and Official Statement, which in the reasonable judgment of the Representative materially and adversely affects the investment quality of the Notes or the price at which the Notes are proposed to be sold; and

(d) At or prior to the Closing, the Representative shall have received each of the following documents (in each case with only such changes as the Representative shall approve):

(1) The final approving opinion of Bond Counsel in substantially the form attached as APPENDIX F to the Official Statement;

(2) The supplemental opinion of Bond Counsel in substantially the form attached hereto as Exhibit A;

(3) The opinion of Willcox & Savage, P.C., counsel to the Commission ("Commission's Counsel"), in substantially the form attached hereto as Exhibit B;

(4) The opinion of Butler Snow LLP, counsel to the Underwriters (“Underwriters’ Counsel”), in substantially the form attached hereto as Exhibit C;

(5) A certificate of the Commission dated the Closing Date signed by its Executive Director and/or by the Chair of the Commission (and/or other such proper officer of the Commission) to the effect that: (A) the representations and warranties of the Commission contained herein and in the Indenture are true and correct in all material respects as of the Closing Date, as if made on the Closing Date; (B) except as otherwise disclosed in the Official Statement, no litigation or proceeding is pending with respect to which service or notice on the Commission has been perfected or given or, to their knowledge, threatened against the Commission (i) to restrain or enjoin the issuance or delivery of the Notes and the Commission Documents or the collection of HRTAC Revenues, (ii) in any way contesting or affecting any authority for the issuance or the validity of the Notes, the validity, due authorization and execution of the Commission Documents, or the Commission’s right to use the proceeds of the Notes for the purposes described in the Bond Resolution, the Official Statement and the Indenture, (iii) in any way contesting the corporate existence or powers of the Commission with respect to the transactions contemplated hereby, or (iv) if adversely determined, could materially adversely affect the financial position or operating condition of the Commission; (C) at the time of the Closing, the Agreement, the Bond Resolution and the Commission Documents are in full force and effect and none of the proceedings or authority for the issuance and delivery of the Notes and for the execution and delivery of this Agreement, the Bond Resolution and the Commission Documents have been modified, amended or repealed; and (D) the Financial Statements present fairly the Commission’s financial condition as of June 30, 20[22], and the results of its operations for such period set forth therein and have been prepared in accordance with generally accepted accounting principles consistently applied; and there has been no material adverse change in the financial affairs of the Commission since June 30, 20[22], except as disclosed in the Official Statement;

(6) A certified copy of the Bond Resolution, a fully-executed copy of the TIFIA Loan Agreement and a fully-executed original of each of the Commission Documents;

(7) A request and authorization of the Commission signed by its Chair (or such other proper officer of the Commission) to the Trustee to authenticate and deliver the Notes to or at the direction of the Underwriters for the account of the Underwriters upon payment to or for the account of the Commission of the Purchase Price;

(8) Evidence that (A) the Commission shall have received long-term rating for the Notes of not less than “___” by Moody’s Investor Service and not less than “___” by S&P Global Ratings, and (B) the ratings previously assigned to the Senior Bonds of the Commission shall not have been downgraded or withdrawn at or prior to the Closing;

(9) A certificate signed by the Commission's Executive Director setting forth facts, estimates and circumstances (including covenants of the Commission) in existence on the Closing Date sufficient to support the conclusion that it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and applicable rules and regulations;

(10) A copy of the Internal Revenue Service Form 8038-G relating to the Notes and duly signed by an authorized officer of the Commission and evidence that such form will be filed with the Internal Revenue Service within the applicable time limit;

(11) Evidence that the Commission has satisfied the conditions set forth in the Indenture with respect to the issuance of the Notes; and

(12) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Representative may reasonably require to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction on or prior to the Closing Date of all the agreements then to be performed and conditions then to be satisfied by the Commission.

If the Commission shall be unable to satisfy the conditions to the Underwriters' obligations contained in this Agreement or if the Underwriters' obligations shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Underwriters nor the Commission shall have any further obligation hereunder, except (i) as required by Section 1 hereof with respect to the good faith deposit, and (ii) that the respective obligations of the Commission and the Underwriters set forth in Section 11 hereof shall continue in full force and effect.

10. Events Permitting the Underwriters to Terminate. The Representative shall have the right to cancel the Underwriters' obligation to purchase and accept delivery of the Notes hereunder and to terminate this Agreement by written notification by the Representative to the Commission of their election to cancel if at any time subsequent to the date of this Agreement and prior to the Closing Date:

(a) an event shall occur that makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Preliminary Official Statement or the Official Statement or results in an omission to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading in any material respect and, in either such event, (i) the Commission does not permit the Official Statement to be supplemented to supply such statement or information, or (ii) the effect of the Official Statement as so supplemented, in the reasonable judgment of the Representative, is to materially adversely affect the market price or marketability of the Notes or the sale, at the contemplated offering prices (or yields), by the Underwriters of the Notes;

(b) an amendment to the Constitution of the United States or the Commonwealth of Virginia shall have been passed or legislation shall have been enacted by the Congress of the United States, or legislation shall be reported out of committee, or recommended for passage by either House of the Congress, or recommended to the Congress or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chair or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation is proposed for consideration by either such committee by any member thereof or presented as an option for consideration by either such committee by the staff or such committee or by the staff of the Joint Committee on Taxation of the Congress of the United States, or a bill to amend the Code (which, if enacted, would be effective as of a date prior to the Closing) shall be filed in either House, or a decision by a court the United States or of the Commonwealth of Virginia or the Tax Court of the United States shall be rendered, or a ruling shall have been made or a regulation or temporary regulation shall be issued or proposed by or on behalf of the Department of the Treasury or the Internal Revenue Service of the United States, or other agency of the federal government or the Commonwealth of Virginia, in any such case with respect to or affecting (directly or indirectly) the taxation by the federal government or the Commonwealth of Virginia of interest received on obligations of the general character of the Notes which, in the opinion of the Representative, materially adversely affects the market for the Notes or the sale, at the contemplated offering prices (or yields), by the Underwriters of the Notes or may have the purpose or effect, directly or, indirectly, of affecting the tax status of the Commission, its property or income, its securities (including the Notes) or the interest thereon, or any tax exemption granted or authorized by the Commonwealth of Virginia;

(c) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect of which is that the issuance, offering or sale of the Notes, or the execution and delivery of this Agreement, the Rule 15c2-12 Compliance Certificate, the Indenture, or the Continuing Disclosure Undertaking, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of any applicable law, rule or regulation, including (without limitation) any provision of applicable federal securities laws, including the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended or the Trust Indenture Act of 1939, as amended;

(d) an order, decree or injunction of any court of competent jurisdiction, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Notes, or the issuance, offering or sale of the Notes, including any or all underlying obligations, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of any applicable law, rule or regulation, including (without limitation) any provision of applicable federal securities laws as amended and then in effect;

(e) any litigation shall be instituted or be pending at the time of the Closing to restrain or enjoin the issuance, sale or delivery of the Notes, or in any way contesting or affecting any authority for or the validity of the proceedings authorizing and approving the HRTAC Act, the Bond Resolution, this Agreement, the Rule 15c2-12 Compliance Certificate, the Indenture, or the Continuing Disclosure Undertaking; or the existence or powers of the Commission with respect to its obligations under the HRTAC Act, the Bond Resolution, this Agreement, the Rule 15c2-12 Compliance Certificate, the Indenture, or the Continuing Disclosure Undertaking;

(f) legislation introduced in or enacted (or resolution passed) by the Congress or recommended for passage (whether or not then introduced) by the President of the United States, or an order, decree or injunction issued by any court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Notes, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended (the “Securities Act”), or that the Indenture is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended, or that the issuance, offering or sale of obligations of the general character of the Notes, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities law as amended and then in effect;

(g) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national or international emergency or war or other calamity or terrorism, any downgrade of the sovereign debt rating of the United States, any payment default on United States Treasury obligations, or any other circumstance the effect of which on financial markets will, in the reasonable judgment of the Representative, materially adversely affect the market price or marketability of the Notes or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields), of the Notes;

(h) there shall have occurred a general suspension of trading, minimum or maximum prices for trading shall have been fixed and be in force or maximum ranges or prices for securities shall have been required on the New York Stock Exchange or other national stock exchange whether by virtue of a determination by that Exchange or by order of the Securities and Exchange Commission or any other governmental agency having jurisdiction or any national securities exchange shall have: (i) imposed additional material restrictions not in force as of the date hereof with respect to trading in securities generally, or to the Notes or similar obligations; or (ii) materially increased restrictions now in force with respect to the extension of credit by or the charge to the net capital requirements of Underwriters or broker-dealers such as to make it, in the reasonable judgment of the Representative, impractical or inadvisable to proceed with the offering of the Notes as contemplated in the Official Statement;

(i) a general banking moratorium shall have been declared by federal, New York or Commonwealth authorities, or a major financial crisis or a material disruption in commercial banking or securities settlement or clearing services, or a material disruption or deterioration in the fixed income or municipal securities market shall have occurred such as to make it, in the reasonable judgment of the Representative, impractical or inadvisable to proceed with the offering of the Notes as contemplated in the Official Statement;

(j) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by, any governmental body, department or agency in the Commonwealth of Virginia, or a decision by any court of competent jurisdiction within the Commonwealth of Virginia shall be rendered that, in the Representative's reasonable judgment, would have a material adverse effect on the market price or marketability of the Notes or the ability of the Underwriters to enforce contracts for the sale, at the contemplated offering prices (or yields), of the Notes;

(k) the marketability of the Notes or the market price thereof, in the opinion of the Representative, has been materially and adversely affected by disruptive events, occurrences, or conditions in the securities or debt markets; or

(l) there shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to any of the Commission's obligations under the Master Indenture, as supplemented, including, without limitation, the Notes.

11. Expenses.

(i) Except as provided in Section 11(ii) below, the Commission shall pay any expenses incident to the performance of its obligations hereunder, including but not limited to (a) the cost of the preparation, reproduction, printing, distribution, mailing, execution, delivery, filing and recording, as the case may be, of this Agreement, the Official Statement, the Bond Resolution, the Indenture, the Continuing Disclosure Undertaking and all other agreements and documents required in connection with the consummation of the transactions contemplated hereby, (b) the cost of the preparation, execution and delivery of the definitive Notes, (c) the cost of preparing and publishing all advertisements relating to the Notes upon commencement of the offering of the Notes, (d) the fees and disbursements of Bond Counsel and Commission's Counsel, and any other experts, advisors or consultants retained by the Commission, (e) the initial or acceptance fee, if any, of the Trustee, (f) any rating fees charged by the rating agencies, requested by the Commission to rate the Notes, and (g) any expenses incurred by or on behalf of Commission employees that are incidental to implementing this Agreement, including, but not limited to, meals, transportation, and lodging of such employees. The Commission also agrees to pay or to reimburse the Underwriters for any expenses incident to the cost of preparing and publishing all advertisements and investor presentations relating to the Notes upon commencement of the offering of the Notes. Notwithstanding anything herein to the contrary, the Commission's obligation to pay expenses shall be limited to amounts available to it from the proceeds of the sale of the Notes unless the Commission otherwise agrees.

(ii) The Underwriters shall pay: (a) the cost of qualifying the Notes for offer and sale under “blue sky” laws and determining their eligibility for investment under the laws of such jurisdictions and the Representative may designate, including filing fees; (b) the fees and disbursements of Underwriters’ Counsel; (c) the cost of the transportation and lodging for representatives of the Underwriters to attend meetings and the Closing; (d) all other expenses incurred by the Underwriters in connection with the offering and the distribution of the Notes, including any fees paid to a third party for a continuing disclosure undertaking compliance review; (e) any fees of the MSRB in connection with the issuance, offering or sale of the Notes; and (f) the cost of obtaining CUSIP number assignments for the Notes; provided, however, the Commission acknowledges that a portion of such expenses and other actual expenses incurred or paid for or by the Underwriters on behalf of the Commission in connection with the marketing, issuance, and delivery of the Notes are included in the expense component of the Underwriters’ discount or as direct reimbursement as a cost of issuance in either case as proposed by the Representative and agreed to by the Commission. The Commission acknowledges that certain expenses included in the expense component of the Underwriters’ discount are based on estimates.

12. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Commission and the Underwriters and their respective successors and assigns. Nothing in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the parties hereto and their respective successors and assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns, and not for the benefit of any other person, firm or corporation. No purchaser of the Notes from the Underwriters or any other persons or entity shall be deemed to be a successor merely by reason of such purchase.

13. **Notices.** All notices, demands and formal actions shall be in writing and mailed, faxed, sent by electronic communication (provided that electronic communications must be confirmed by the sender), or hand delivered to: (a) the Commission, at 723 Woodlake Drive, Chesapeake, Virginia 23320, Attention: Executive Director, kpage@hrtac.org, and (b) the Representative, at 550 South Tryon Street, 27th Floor, Charlotte, North Carolina 28202-4200, Attention: Mark Burns, Managing Director, mark.burns@wellsfargo.com.

14. **Survival of Representations and Obligations.** All representations, warranties, covenants and agreements by the Commission in this Agreement shall remain operative and in full force and effect regardless of: (i) any investigation made by or on behalf of the Underwriters; (ii) delivery of and payment for the Notes hereunder; or (iii) any termination of this Agreement, other than pursuant to Section 10 (and in all events the agreements of the Commission pursuant to Sections 11 and 13 hereof shall remain in full force and effect notwithstanding the termination of this Purchase Agreement under Section 10 hereof).

15. **Miscellaneous.** This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all oral statements, prior writings and representations with respect thereto. This Agreement may not be amended without the written consent of the Commission and the Representative. None of the officers, directors, employees or agents of the Commission shall be charged personally by the Underwriters with any liability, or

be held liable by the Underwriters under any term or provision of this Agreement because of its execution or attempted execution, or because of any breach or attempted or alleged breach thereof.

16. **Governing Law.** The validity, interpretation and performance of this Agreement shall be governed by the laws of the Commonwealth, without regard to conflict of law principles.

17. **Waiver of Jury Trial.** THE COMMISSION HEREBY IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

18. **Severability.** In case any one or more of the provisions of this Agreement shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement, and this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

19. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart. The parties hereto may evidence their acceptance, execution and delivery of this Agreement by facsimile signature.

[Signature Pages Follow]

Very truly yours,

By: WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Representative

By: _____

[Underwriters' signature page to Bond Purchase Agreement]

Accepted as of the date first above written at
the following time: _____.

HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

By: _____

Chair

By: _____

Kevin B. Page
Executive Director

[Commission's signature page to Bond Purchase Agreement]

SCHEDULE I

\$ _____

**Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes
Series 2023A**

Maturities, Principal Amounts, Interest Rates, Yields and Prices

Due (July 1)	Amount	Rate	Yield	Price

Redemption Provisions

The Series 2023A Notes are not subject to redemption prior to maturity.

EXHIBIT A
FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

_____, 2023

Wells Fargo Bank, National Association,
as Representative
Charlotte, North Carolina

\$ _____
Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes, Series 2023A

Ladies and Gentlemen:

As Bond Counsel to the Hampton Roads Transportation Accountability Commission (the “Commission”), we have delivered to Wells Fargo Bank, National Association, as representative (the “Representative”) of the underwriters for the above-captioned notes (the “Notes”), a copy of our approving opinion dated today relating to the issuance by the Commission of the Notes. This letter confirms that you may rely on our approving opinion as if it were addressed to you.

At your request, we have also reviewed (a) the Bond Purchase Agreement, dated [October] [], 2023 (the “Bond Purchase Agreement”), between the Representative and the Commission with respect to the offering and sale of the Notes; (b) certain sections described below of the Official Statement, dated [October] [], 2023, relating to the Notes (the “Official Statement”); (c) the Continuing Disclosure Undertaking dated the date of its execution and delivery, for benefit and the benefit of the holders of the Notes (the “Continuing Disclosure Undertaking”) and (d) certified copies of proceedings of the Hampton Roads Transportation Accountability Commission with respect to the Bond Purchase Agreement and the Official Statement, as well as such other documents as we deem necessary to render this opinion.

We express no view as to any part of the Official Statement not described below, and no view is expressed as to financial statements and other financial, statistical, technical, economic, engineering, demographic or tabular data or forecasts, numbers, charts, tables, graphs, estimates, suggestions, assumptions or expressions of opinions included in the Official Statement.

Based on the foregoing, we are of the opinion that:

1. The Bond Purchase Agreement and the Continuing Disclosure Undertaking have been duly authorized, executed and delivered by the Commission and, assuming their due authorization, execution and delivery by the other parties thereto, each constitutes a valid and binding legal obligation of the Commission, enforceable against the Commission in accordance

with their respective terms. The enforceability of the Bond Purchase Agreement and the Continuing Disclosure Undertaking may be limited by the provisions of bankruptcy, insolvency, reorganization, moratorium, or other laws, now or hereafter in effect, and by equitable principles which may limit the specific enforcement of certain remedies.

2. The Notes are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture, as defined in the Bond Purchase Agreement, is exempt from qualification under the Trust Indenture Act of 1939, as amended.

We also advise you that the statements in the Official Statement under “INTRODUCTION,” “DESCRIPTION OF THE SERIES 2023A NOTES” (except “Book-Entry System”), “SECURITY AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES,” and “2023 HRTF TIFIA LOAN,” and the summaries contained in Appendix A fairly and accurately summarize the indicated provisions of the Notes and the Indenture, and the information in the Official Statement under “TAX MATTERS,” read together with our approving opinion, the form of which appears as Appendix F to the Official Statement, fairly and accurately reflects the matters discussed thereunder.

This letter is furnished by us in our capacity as Bond Counsel to the Commission. No attorney-client relationship has existed or exists between our firm and the addressee hereof in connection with the Notes, the Official Statement or by virtue of this opinion. This opinion has been prepared solely for your use in connection with the issuance of the Notes on the date hereof and should not be used, circulated, quoted or otherwise referred to or relied upon by any person other than you. This opinion is not intended to be relied upon by the Trustee (as described in the Bond Purchase Agreement) or the holders or the beneficial owners of the Notes.

Very truly yours,

EXHIBIT B
FORM OF COMMISSION’S COUNSEL OPINION

_____, 2023

Hampton Roads Transportation
Accountability Commission
Chesapeake, Virginia

Wells Fargo Bank, National Association,
as Representative
Charlotte, North Carolina

\$ _____
Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes, Series 2023A

Ladies and Gentlemen:

We have acted as general counsel to the Hampton Roads Transportation Accountability Commission (the “Commission”) in connection with the execution and delivery of the Bond Purchase Agreement dated [October] [___], 2023, among the Commission and Wells Fargo Bank, National Association, on behalf of itself and as representative of [BofA Securities, Inc., J.P. Morgan Securities LLC, Loop Capital Markets LLC, and Siebert Williams Shank & Co., LLC] (collectively, the “Underwriters”) (the “Bond Purchase Agreement”), relating to the Commission’s Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A (the “Notes”). For purposes of this opinion, capitalized terms used herein and not defined herein have the meanings assigned to them in the Bond Purchase Agreement.

In rendering the opinions hereinafter set forth, we have examined copies of the following documents and instruments:

- (i) Title 33.2, Chapter 26, of the Code of Virginia of 1950, as amended (the “Act”);
- (ii) the Third Amended and Restated Bylaws of the Commission dated July 16, 2020 (the “Bylaws”);
- (iii) the Resolution of the Commission adopted by the Commission on September 21, 2023 (the “Bond Resolution”), approving the Notes and the execution and delivery by the Commission of the Commission Documents (defined below);
- (iv) the Bond Purchase Agreement;

- (v) the Indenture;
- (vi) the Continuing Disclosure Undertaking;
- (vii) the Preliminary Official Statement of the Commission dated [September] [___], 2023 and the Official Statement of the Commission dated [October] [___], 2023 (together, the “Official Statement”); and
- (viii) the General Certificate of the Commission dated _____, 2023 (the “General Certificate”).

The items described in paragraphs (iv) through (vii) above are collectively referred to herein as the “Commission Documents.”

With your consent, our examination has been confined solely to the above-enumerated documents and our opinions, as set forth herein, are based solely on the information contained therein, without any independent verification or investigation. As to questions of fact material to the opinions expressed herein, we have relied upon representations of the Commission made in the Commission Documents, certifications by officers and representatives of the Commission (including, without limitation, in the General Certificate), and representations and certifications of public officials and the Trustee (including, without limitation, those set forth on Schedule 1 attached hereto). We have assumed that no events have occurred after the dates of such representations and certifications that would change the representations or certifications contained therein and that such representations and certifications are complete and accurate as of the date hereof.

We have assumed that all documents delivered to us are accurate and complete, that each such document delivered as an original is authentic and that each such document delivered as a copy conforms to the original document in all respects. We have also assumed the genuineness of all signatures and the legal capacity of all natural persons.

We have assumed that there has not been any mutual mistake of fact or misunderstanding, fraud, dishonesty, coercion, duress, undue influence or breach of fiduciary duty. We have further assumed that to the extent applicable law would require any rights or remedies set forth in any of the Commission Documents to be exercised in good faith or in a reasonable or commercially reasonable manner as a condition to the enforceability thereof, such legal requirements will be observed and satisfied. We have also assumed that the Commission will obtain all permits and governmental approvals and all consents and authorizations from third parties which are required in the future for the performance of its obligations under the Commission Documents.

Although this firm has represented the Commission on general legal matters since July 2, 2014, our employment by it is limited to specific matters referred to us and there may exist matters about which we have not been consulted. Further, the Commission has engaged Kaufman & Canoles, a Professional Corporation, as its Bond Counsel, in connection with the issuance, sale and delivery of the Notes, as contemplated by the Commission Documents, and reference is hereby made to Bond Counsel’s opinion as to all matters addressed therein, including opinions relating to the validity of the Notes, the enforceability of the Notes and the Indenture, and the tax treatment of interest on the Notes. We have made no independent examination of the statements made in

such opinion and express no opinion as to the matters therein, but assume that such statements and opinions are accurate and correct.

Based upon the foregoing, and subject to the assumptions and qualifications contained herein, we are of the opinion as of the date hereof that:

1. The Commission is a body politic and a political subdivision of the Commonwealth of Virginia created by, and existing pursuant to, the Act. The Commission has the requisite power and authority (a) to enter into and perform its obligations under the Commission Documents; and (b) to issue the Notes under the Indenture.

2. Based solely upon the certifications of public officials set forth on Schedule 1 attached hereto, the officials of the Commission named in the Official Statement have been duly appointed and are as of the date of the Bond Resolution legally qualified to serve in their respective positions.

3. The Bond Resolution, which authorizes the issuance of the Notes and the execution and delivery of the Commission Documents, has been duly adopted by the Commission, and the Commission Documents have been duly authorized and executed by the Commission. Assuming due authorization, execution and delivery by the other parties thereto, the Commission Documents constitute the valid and binding obligations of the Commission and, subject to the assumptions, exceptions and limitations set forth herein, are enforceable against the Commission in accordance with their respective terms.

4. The execution and delivery of the Commission Documents by the Commission do not violate the Act or the Commission's Bylaws and, to our actual knowledge, do not (a) violate any applicable law, or (b) conflict with or constitute a material breach or default under any judgment, court order or consent decree of any court or governmental authority to which the Commission is subject that is listed on Schedule 2 attached hereto, or any agreement, note, resolution, indenture or other instrument to which the Commission is a party or by which it is bound.

5. Except as disclosed in the Official Statement, to our actual knowledge based upon the General Certificate and our review of the records described on Schedule 3 attached hereto, no legal proceedings are pending or threatened against the Commission: (a) contesting or affecting the validity or authority for the issuance of the Notes or seeking to restrain or enjoin the issuance or delivery of the Notes; (b) contesting or affecting the operation of the Commission or the validity or enforceability of the Bond Resolution or any of the Commission Documents; (c) seeking to restrain or enjoin the collection of revenues pledged under the Bond Resolution that, if determined adversely to the Commission, would have a material impact on the Commission's collection of the revenues pledged under the Indenture, or the pledge thereof; (d) contesting the completeness or accuracy of the Official Statement; or (e) contesting the power of the officials of the Commission or their authority with respect to the Bond Resolution or the Commission Documents.

6. We are not passing upon and do not assume any responsibility for, and make no representation that we have independently verified the accuracy, completeness or fairness of, the statements contained in the Preliminary Official Statement or the Official Statement. Based,

however, solely upon the examination that we have made in our role as general counsel to the Commission, and without having undertaken to independently determine the accuracy, completeness or fairness of the statements contained in the Preliminary Official Statement or the Official Statement, but on the basis of our conferences with representatives of the Commission, its financial advisor, its Bond Counsel and your representatives, and upon our examination of the Preliminary Official Statement and the Official Statement, nothing has come to our attention that has led us to believe that the Preliminary Official Statement, as of its date, or the Official Statement, as of its date and as of the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Notwithstanding the foregoing, no opinion or advice is hereby given with respect to the sections in the Preliminary Official Statement and the Official Statement titled “DESCRIPTION OF THE SERIES 2023A NOTES – Book Entry System,” “TAX MATTERS,” “RATINGS,” “FINANCIAL ADVISOR,” “UNDERWRITING,” the Appendices, or other financial and statistical information and data included in the Preliminary Official Statement or the Official Statement.

The foregoing opinions are subject to the following additional limitations and qualifications:

(A) Our opinion is based solely upon Federal law and the laws of the Commonwealth of Virginia (without giving effect to Virginia’s principles of conflict of laws) and we express no opinion based upon the laws of any other state. This opinion does not address, and expressly excludes, any consideration of (i) the status of interest on the Notes for Federal or state income tax purposes, (ii) Rule 15c2-12 promulgated under the Security Exchange Act of 1934, as amended, (iii) the registration requirements of the Securities Act of 1933, as amended, (iv) the Trust Indenture Act of 1939, as amended, (v) antitrust and unfair competition laws, (vi) tax laws, (vii) subdivision, zoning, environmental, and land use laws, (viii) laws pertaining to fiduciary duties, (ix) banking laws, and (x) laws related to terrorism or money-laundering.

(B) Our opinions with respect to the enforceability of the Commission Documents is limited by, and the performance by the Commission of its obligations thereunder is subject to, (i) applicable Federal or state bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws, now or hereafter in effect, relating to, or affecting the enforcement of, creditors’ rights against the Commission and to any judicially developed doctrines related thereto; (ii) sovereign immunity, or other applicable provisions of law relating to judgments against the Commonwealth of Virginia, its bodies politic and corporate, and its political subdivisions, including any limitation of indemnification obligations of the Commission on the basis of public policy or by applicable statutory or constitutional provisions of the Commonwealth of Virginia; and (iii) general principles of equity, including, without limitation, the possible unavailability of specific performance or injunctive relief, and the possible application of defenses such as estoppel or waiver.

(C) We express no opinion with respect to any terms in any Commission Documents (i) obligating the Commission to comply with laws or regulations of a type identified in any of clauses (i) through (x) of paragraph (A) above, (ii) authorizing self-help or permitting the unilateral or ex parte appointment of a receiver, (iii) permitting the Trustee, the Underwriters, or any other

party, or their respective agents, to bring suit against less than all parties liable thereon without affecting the liability of the other parties thereto, (iv) regarding choice of law or forum selection or purporting to affect the jurisdiction or venue of courts, (v) indemnifying a party for, or releasing, exculpating or exempting a party from, liability for its own action or inaction, (vi) concerning payment of penalties, liquidated damages, or prepayment charges, (vii) waiving obligations of good faith, fair dealing, diligence, or commercial reasonableness, (viii) providing that an election of remedies does not affect a party's right to other remedies, (ix) providing that any unenforceable terms shall not affect the enforceability of any other terms where the unenforceable terms are an essential part of the agreement, (x) to the effect that the failure or delay of the Trustee, the Underwriters or any other party or their respective agents in exercising a right or remedy will not operate as a waiver of such right or remedy, (xi) purporting to waive (or having the effect of waiving) rights under the Constitution or laws of the United States or the Commonwealth of Virginia, (xii) waiving statutes of limitation, (xiii) waiving or restricting access to courts or to legal or equitable remedies, (xiv) purporting to waive or otherwise affect any right to receive notice, or (xv) purporting to grant rights to, or limit the rights of, third parties.

(D) We have not been asked to, and do not render any opinion herein with respect to (i) the general business affairs or creditworthiness of the Commission, or (ii) any other matter not expressly set forth above.

This opinion is solely for your benefit in connection with the transaction described herein and for no other purpose. This opinion may not be distributed to or relied upon by any other person, quoted in whole or in part, or otherwise reproduced in any other document (except that copies of this opinion may be included in any binder or compilation of documents for the transaction to which this opinion relates), nor is it to be filed with any governmental agency other than the Commission and regulatory authorities having jurisdiction over the Trustee or the Underwriters, except with our prior written consent. We do not undertake to advise you of any changes in the opinions expressed herein resulting from any matters that might hereafter come or be brought to our attention.

Very truly yours,

WILLCOX & SAVAGE, P.C.

By: _____
Member

EXHIBIT C
FORM OF OPINION OF UNDERWRITERS' COUNSEL

_____, 2023

Wells Fargo Bank, National Association,
as Representative
Charlotte, North Carolina

\$ _____
Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes, Series 2023A

Ladies and Gentlemen:

We have acted as underwriters' counsel to Wells Fargo Bank, National Association, as representative (the "Representative") of the underwriters (the "Underwriters"), in connection with the Underwriters' purchase of the above-captioned notes (the "Notes") pursuant to a Bond Purchase Agreement dated [October] [], 2023 (the "Agreement"), between the Hampton Roads Transportation Accountability Commission (the "Commission") and the Representative. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.

In the course of our engagement, we have examined such law as we have deemed relevant and necessary as a basis for this letter and originals or copies, certified or otherwise, identified to our satisfaction, of records, documents, agreements, certificates and opinions relating to the Notes and required to be delivered pursuant to conditions of the Agreement regarding the transactions contemplated by the Official Statement dated [October] [], 2023 (the "Official Statement") relating to the Notes, and we have relied on the statements of fact contained therein and such opinions without independently verifying the truth or accuracy of such statements, opinions and other documents.

Based upon the foregoing, and subject to the qualifications, assumptions, and matters of reliance set forth herein, it is our opinion that, under existing law, (A) the Notes are exempt from registration under the Securities Act of 1933, as amended, and (B) the Indenture, as supplemented and amended, is exempt from qualification under the Trust Indenture Act of 1939, as amended.

We cannot and do not assume responsibility for or pass upon the accuracy, completeness and fairness of the statements contained in the Official Statement and make no representation that we have independently verified the accuracy of such statements. As counsel to the Underwriters,

we have participated with the Underwriters in discussions, meetings, and telephone conferences at which representatives of the Commission and Bond Counsel were at various times present. Based upon our participation in the above-mentioned conferences and such consultations (which did not extend beyond the date of the Official Statement) and subject to the foregoing, we state that, as of the date of the Official Statement, no information came to the attention of the attorneys in our firm rendering legal services in connection with such review which leads us to believe that the Preliminary Official Statement, as of its date, or the Official Statement, as of its date and as of the date hereof (except for the Appendices thereto, any financial statements, development plans, engineering, demographic, economic, and financial or statistical data and any statements of trends, forecasts, estimates and assumptions, and any expressions of opinion, including opinions as to the federal tax status of the Notes, and information concerning The Depository Trust Company and its procedures contained in the Preliminary Official Statement or the Official Statement and its Appendices, as to each of which we express no view) contained any untrue statement of a material fact or omitted a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

We are of the further opinion that the Continuing Disclosure Undertaking, dated _____, 2023, executed by the Commission in connection with the issuance of the Notes (“Continuing Disclosure Agreement”), meets the requirements of Rule 15c2-12 (the “Rule”) of the Securities and Exchange Commission and that the undertakings contained in the Continuing Disclosure Agreement provide a suitable basis for the Underwriters to reasonably determine that the Commission has undertaken to provide the information required to be provided in connection with the primary offering of the Notes pursuant to section (b)(5)(i) of said Rule; provided, however, we note that the Commission has covenanted in the Continuing Disclosure Agreement to provide certain information regarding the Commission, and our opinion is conditioned upon the obligation of the Commission to timely provide such information regarding the Commission. We do not opine upon the enforceability of the Continuing Disclosure Agreement and have relied upon the opinion of counsel to the Commission that the Continuing Disclosure Agreement has been duly authorized, executed, and delivered and constitutes a valid and binding obligation of the Commission.

We have not passed upon, and the foregoing is subject to, the validity of the Notes, the exclusion from gross income for federal income tax purposes of the interest on the Notes, and the exemption with respect to the Notes and the income therefrom from all Commonwealth of Virginia income tax, as to which we understand that the Underwriters are relying upon the opinion, dated the date hereof, of Kaufman & Canoles, a Professional Corporation, Richmond, Virginia.

We are issuing this letter to and for sole benefit of the Underwriters in connection with the Underwriters’ initial purchase and primary offering of the Notes. No person other than the Underwriters may rely upon this opinion without our express prior written consent. This letter may not be utilized by the Underwriters for any other purpose whatsoever and may not be quoted by the Underwriters without our express prior written consent, provided this letter may be contained in the Commission’s official record of proceedings for the issuance and sale of the Notes. Our engagement as counsel to the Underwriters terminates upon the Closing for the issuance and sale of the Notes on the date hereof.

We assume no obligation to review or supplement this letter or any opinion or advice contained herein, subsequent to the date hereof, whether by reason of a change in applicable law, by legislative or regulatory action or judicial decision or order, or for any other reason whatsoever. We are passing only upon the matters set forth herein and are not passing upon the accuracy, adequacy or completeness of any statement made in connection with any offer or sale of the Notes, except as specifically addressed above.

Very truly yours,

EXHIBIT D

FORM OF ISSUE PRICE CERTIFICATE

\$ _____
Hampton Roads Transportation Accountability Commission
Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes, Series 2023A

ISSUE PRICE CERTIFICATE

The undersigned, Wells Fargo Bank, National Association (the “Representative”), on behalf of itself and as representative of [BofA Securities, Inc., J.P. Morgan Securities LLC, Loop Capital Markets LLC, and Siebert Williams Shank & Co., LLC] (together, the “**Underwriting Group**”), hereby certifies as set forth below, based upon information available to the Representative, with respect to the sale and issuance of the above-captioned obligations (the “**Notes**”).

[Select appropriate provisions below]

1. *[Alternative 1¹ – All Maturities Use General Rule: Sale of the Notes. As of the date of this certificate, for each Maturity of the Notes, the first price at which at least 10% of such Maturity of the Notes was sold to the Public is the respective price listed in Schedule A.]*
[Alternative 2² – Select Maturities Use General Rule: Sale of the General Rule Maturities. As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity of the Notes was sold to the Public is the respective price listed in Schedule A.]

2. Initial Offering Price of the [Notes] [Hold-the-Offering-Price Maturities].

(a) *[Alternative 1³ – All Maturities Use Hold-the-Offering-Price Rule: The Underwriting Group offered the Notes to the Public for purchase at the respective initial offering prices listed in Schedule A (the “**Initial Offering Prices**”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Notes is attached to this certificate as Schedule B.]*
*[Alternative 2⁴ – Select Maturities Use Hold-the-Offering-Price Rule: The Underwriting Group offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “**Initial Offering Prices**”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Notes is attached to this certificate as Schedule B.]*

¹ If Alternative 1 is used, delete the remainder of paragraph 1 and all of paragraph 2 and renumber paragraphs accordingly.

² If Alternative 2 is used, delete Alternative 1 of paragraph 1 and use each Alternative 2 in paragraphs 2(a) and (b).

³ If Alternative 1 is used, delete all of paragraph 1 and renumber paragraphs accordingly.

⁴ Alternative 2(a) of paragraph 2 should be used in conjunction with Alternative 2 in paragraphs 1 and 2(b).

(b) [Alternative 1 – All Maturities use Hold-the-Offering-Price Rule: As set forth in the Bond Purchase Agreement, the members of the Underwriting Group have agreed in writing that, (i) for each Maturity of the Notes, they would neither offer nor sell any of the unsold Notes of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “**hold-the offering-price rule**”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. No member of the Underwriting Group has offered or sold any Maturity of the unsold Notes at a price that is higher than the respective Initial Offering Price for that Maturity of the Notes during the Holding Period.] [Alternative 2 - Select Maturities Use Hold-the-Offering-Price Rule: As set forth in the Bond Purchase Agreement, the members of the Underwriting Group have agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, they would neither offer nor sell any of the unsold Notes of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “**hold-the offering-price rule**”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement and based on representations by the member of the Underwriting Group, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Notes during the Holding Period.]

3. Defined Terms.

[(a) “**General Rule Maturities**” means those Maturities of the Notes listed in Schedule A hereto as the “General Rule Maturities.”]

[(b) “**Hold-the-Offering-Price Maturities**” means those Maturities of the Notes listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”]

[(c) “**Holding Period**” means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date (as defined below), or (ii) the date on which the Underwriters have sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.]

(d) “**Issuer**” means the Hampton Roads Transportation Accountability Commission.

(e) “**Maturity**” means Notes with the same credit and payment terms. Notes with different maturity dates, or Notes with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) “**Public**” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to

an Underwriter. The term “related party” for purposes of this certificate means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) “**Sale Date**” means the first day on which there is a binding contract in writing for the sale of a Maturity of the Notes. The Sale Date of the Notes is [October] [___], 2023.

(h) “**Underwriter**” means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Notes to the Public).

4. **Disclaimer.** The representations set forth in this certificate are limited to factual matters only. [In making the representation in subparagraph 2(b) above, the Representative has relied on (a) the agreement of each member of the Underwriting Group to comply with the Hold-the-Offering-Price Rule, as set forth in the Agreement Among Underwriters and any addenda thereto; (b) in the event a selling group has been created in connection with the sale of the Notes to the Public, the agreement of each dealer who is a member of the selling group to comply with the Hold-the-Offering-Price Rule, as set forth in a selling group agreement and the related pricing wires; and (c) in the event that a member of the Underwriting Group is a party to a third-party distribution agreement that was employed in connection with the sale of the Notes, the agreement of each broker-dealer that is a party to such agreement to comply with the Hold-the-Offering-Price Rule, as set forth in the third-party distribution agreement and the related pricing wires. Each member of the Underwriting Group will be solely liable for its failure to comply with its agreement regarding the Hold-the-Offering Price Rule and no member of the Underwriting Group will be liable for the failure of any other member of the Underwriting Group to comply with its corresponding agreement regarding the Hold-the-Offering-Price Rules as applicable to the Notes.]

Nothing in this certificate represents the Representative’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in its Tax Certificate and with respect to compliance with the federal income tax rules affecting the Notes, and by Kaufman & Canoles, a Professional Corporation, in connection with rendering its opinion that the interest on the Notes is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G and other federal income tax advice it may give to the Issuer from time to time relating to the Notes. Except as expressly set forth above, the representations set forth herein may not be relied upon or used by any third party or for any other purpose. Notwithstanding anything set forth herein, the Underwriting Group is not engaged in the practice of law. Accordingly, the Underwriting Group makes no representation as to the legal sufficiency of the factual matters set forth herein.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**, as Representative
of the Underwriting Group

By: _____
Name: _____
Title: _____

Dated: _____, 2023

SCHEDULE A TO ISSUE PRICE CERTIFICATE
SALE PRICES OF THE MATURITIES

[Attach]

SCHEDULE B TO ISSUE PRICE CERTIFICATE
PRICING WIRE OR EQUIVALENT COMMUNICATION

[Attach]

NEW ISSUE
BOOK ENTRY ONLYRatings: Moody's: "____"
S&P: "____"
(See "Ratings" herein)

[In the opinion of Bond Counsel, under current law and assuming the compliance with certain covenants and the accuracy of certain representations and certifications made by HRTAC, interest on the Series 2023A Notes (i) is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), (ii) is not a specific item of tax preference for purposes of the federal alternative minimum tax; however, such interest is included in the "adjusted financial statement income" (as defined in Section 56A of the Code) of certain corporations in determining the applicability and amount of the federal corporate alternative minimum tax imposed under Section 55(b) of the Code, and (iii) is exempt from income taxation by the Commonwealth of Virginia. See "TAX MATTERS."]

Hampton Roads Transportation Accountability Commission

\$ _____ *

Hampton Roads Transportation Fund
Intermediate Lien Bond Anticipation Notes
Series 2023A

Dated: Date of Delivery

Due: July 1, as shown on the inside cover

This Official Statement has been prepared by the Hampton Roads Transportation Accountability Commission ("HRTAC" or the "Commission") to provide information on the above-referenced notes (the "Series 2023A Notes"). Selected information is presented on this cover page for the convenience of the reader. To make an informed decision regarding the Series 2023A Notes, a prospective investor should read this Official Statement in its entirety.

Security/Payment

The Series 2023A Notes are limited obligations of HRTAC that are payable solely from certain funds pledged by HRTAC for such purpose under the Master Indenture (defined herein). The Series 2023A Notes are subordinate in payment and the pledge of such funds to Senior Bonds, on parity with all other Intermediate Lien Obligations and senior to all Subordinate Obligations, each as defined herein, as described in "SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES." The pledged funds consist of amounts credited by the Commonwealth of Virginia (the "Commonwealth") to the Hampton Roads Transportation Fund (the "HRTF"), a nonreverting fund held by the State Treasurer and recorded on the books of the Comptroller of Virginia and transferred to HRTAC for inclusion in the HRTAC Revenues (defined herein). The HRTF consists of revenues generated by (i) an additional 0.7% retail sales and use tax on transactions occurring in HRTAC's Member Localities (defined herein), and (ii) an additional wholesale motor vehicle fuels sales tax on transactions occurring in the Member Localities at a current rate of 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel), subject to an annual adjustment in accordance with the consumer price index. The availability of these tax revenues for deposit in the HRTF is subject to annual appropriation by the General Assembly of the Commonwealth, and the General Assembly may eliminate or change the source of funds for the HRTF at any time. HRTAC relies entirely on the Commonwealth to collect and deposit such funds in the HRTF and to transfer such funds to HRTAC for inclusion in the HRTAC Revenues. HRTAC has no taxing powers. The Series 2023A Notes are not a debt of the Commonwealth or any political subdivision thereof (including any Member Locality) other than HRTAC. Neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions (including any Member Locality) is pledged to the payment of the Series 2023A Notes. It is anticipated that the Series 2023A Notes will be paid at their maturity from a disbursement made to HRTAC under the 2023 HRTF TIFIA Loan Agreement (defined herein) and the issuance of the Series 2023A Notes is contingent upon HRTAC closing the 2023 HRTF TIFIA Loan (defined herein). See "INTRODUCTION—Security and Sources of Payment" and "SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES."

Issued Pursuant to

The Series 2023A Notes will be issued pursuant to a Master Indenture of Trust dated as of February 1, 2018, and a Tenth Supplemental Series Indenture of Trust to be dated as of _____ 1, 2023.* The Commission approved the issuance of the Series 2023A Notes in a resolution dated _____, 2023.

Purpose

The proceeds of the Series 2023A Notes, along with other available funds, will be used to finance a portion of the costs of Segment 4C of the Hampton Roads Express Lanes Network project, to fund capitalized interest on the Series 2023A Notes through July 1, 2025, and to pay costs of issuance of the Series 2023A Notes. See "DESCRIPTION OF THE SERIES 2023A NOTES—Estimated Sources and Uses of Funds."

Interest Rates/Yields

See inside cover.

Interest Payment Dates

January 1 and July 1, commencing January 1, 2024.*

Redemption Terms

See inside front cover and "DESCRIPTION OF THE SERIES 2023A NOTES" herein.

Denominations

\$5,000 or integral multiples thereof.

Closing/Delivery Date

_____, 2023.*

Registration

Full book-entry only; The Depository Trust Company, New York, New York.

Trustee

Wilmington Trust, National Association.

Bond Counsel

Kaufman & Canoles, a Professional Corporation, Richmond, Virginia.

Underwriter's Counsel

Butler Snow LLP, Richmond, Virginia.

Financial Advisor

PFM Financial Advisors, LLC, Orlando, Florida.

Wells Fargo Securities

* Preliminary, subject to change.

BofA Securities

Loop Capital Markets

J.P. Morgan

Siebert Williams Shank & Co., LLC

Official Statement Date: _____, 2023

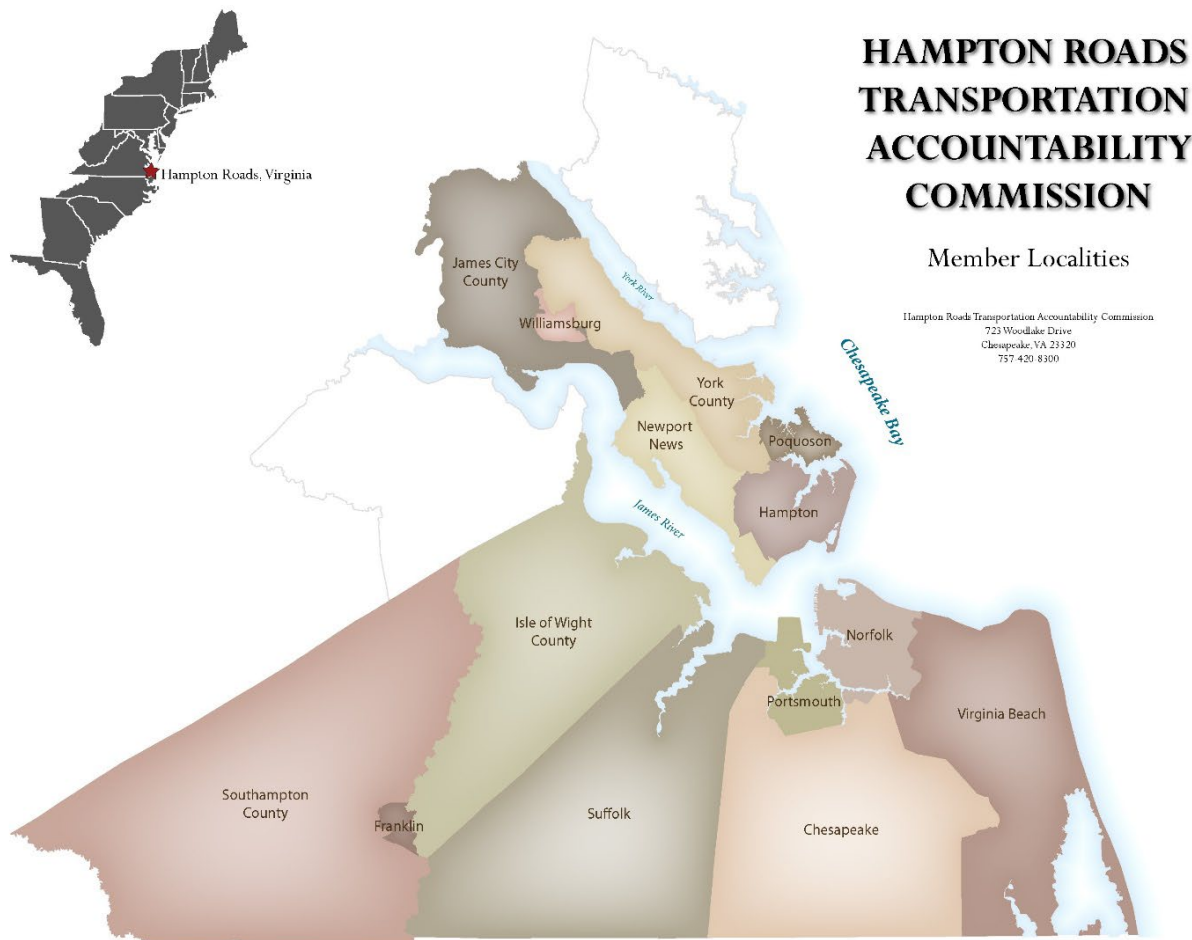
HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

\$ _____^{*}
HAMPTON ROADS TRANSPORTATION FUND
INTERMEDIATE LIEN BOND ANTICIPATION NOTES
SERIES 2023A

<u>July 1</u> [*]	<u>Principal</u> <u>Amount</u> [*]	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> [†]
	\$	%	%	

^{*} Preliminary, subject to change.

[†] CUSIP® is a registered trademark of the American Bankers Association. The CUSIP numbers listed above are being provided solely for the convenience of bondholders, and neither HRTAC nor the Underwriters make any representation with respect to such numbers or undertake any responsibility for their accuracy. The CUSIP numbers are subject to being changed after the issuance of the Series 2023A Notes.



HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

VOTING MEMBERS

Dr. Richard W. “Rick” West, Chair, *City of Chesapeake*
Douglas G. Pons, Vice Chair, *City of Williamsburg*

Kenneth C. Alexander, <i>City of Norfolk</i>	Phillip Jones, <i>City of Newport News</i>
Amanda Batten, <i>Virginia House of Delegates</i>	Barry D. Knight, <i>Virginia House of Delegates</i>
Christopher D. Cornwell, Sr., <i>Southampton County</i>	L. Louise Lucas, <i>Virginia Senate</i>
Robert “Bobby” Cutchins, <i>City of Franklin</i>	Montgomery “Monty” Mason, <i>Virginia Senate</i>
Michael D. Duman, <i>City of Suffolk</i>	William M. McCarty, <i>Isle of Wight County</i>
Robert M. Dyer, <i>City of Virginia Beach</i>	Thomas G. Shepperd, <i>York County</i>
Shannon E. Glover, <i>City of Portsmouth</i>	Anne Ferrell Tata, <i>Virginia House of Delegates</i>
Gordon C. Helsel, <i>City of Poquoson</i>	Donnie R. Tuck, <i>City of Hampton</i>
Michael J. Hipple, <i>James City County</i>	

NON-VOTING MEMBERS

Stephen Brich, Commissioner of Highways	Virginia Department of Transportation
Jennifer DeBruhl, Director	Department of Rail and Public Transportation
Frederick T. Stant III, Member	Commonwealth Transportation Board
Stephen A. Edwards, Executive Director	Virginia Port Authority

HRTAC SENIOR STAFF

Kevin B. Page, Executive Director

GENERAL COUNSEL

Willcox & Savage, P.C.
Norfolk, Virginia

BOND COUNSEL

Kaufman & Canoles, a Professional Corporation
Richmond, Virginia

FINANCIAL ADVISOR

PFM Financial Advisors, LLC
Orlando, Florida

The Series 2023A Notes will be exempt from registration under the Securities Act of 1933, as amended. As obligations of a political subdivision of the Commonwealth, the Series 2023A Notes will also be exempt from registration under the securities laws of the Commonwealth.

No dealer, broker, salesman or other person has been authorized by HRTAC to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by HRTAC. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2023A Notes by any person in any jurisdiction in which it is unlawful for such person to make an offer, solicitation or sale. This Official Statement is not to be construed as a contract or agreement between HRTAC and the purchasers or owners of any of the Series 2023A Notes. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of HRTAC or in any other matters described herein since the date hereof or, as in the case of any information incorporated herein by reference to certain publicly available documents, since the date of such documents.

The information set forth herein has been obtained from HRTAC and other sources which are believed to be reliable, but such information is not guaranteed as to accuracy or completeness and is not to be construed as a representation by any of such sources as to information provided by any other source. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of HRTAC or in any other matters described herein since the date hereof or, as in the case of any information incorporated herein by reference to certain publicly available documents, since the date of such documents.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS IN THIS OFFICIAL STATEMENT

Certain statements contained in this Official Statement, including the Appendices hereto, reflect not historical facts but forecasts, projections and “forward-looking statements.” No assurance can be given that the future results discussed in certain sections of this Official Statement will be achieved and actual results may differ materially from the forecasts and projections contained herein. In this respect, words such as “plan,” “expect,” “estimate,” “project,” “anticipate,” “intend,” “believe,” “budget” or words of similar import are intended to identify forward-looking statements. A number of factors affecting HRTAC and its financial results could cause actual results to differ materially from those stated in the forward-looking statements. All projections, forecasts, assumptions and other forward-looking statements are expressly qualified in their entirety by the cautionary statements set forth in this Official Statement. Such forward-looking statements include, among others, certain of the information under the captions **“SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES,”** **“DESCRIPTION OF THE SERIES 2023A NOTES – Estimated Sources and Uses of Funds,”** **“DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS,”** and **“INVESTMENT CONSIDERATIONS.”** See also **“FORWARD-LOOKING STATEMENTS.”** All statements in this Official Statement, including forward-looking statements, speak only as of the date they are made, and HRTAC and the Underwriters disclaim any obligation to update any of the forward-looking statements contained herein to reflect future events or developments.

The achievement of certain results or other expectations contained in or implied by such forward-looking statements involves known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. HRTAC does not plan to issue updates or revisions to those forward-looking statements if or when its expectations change or events, conditions or circumstances on which such statements are based occur or fail to occur.

Any references to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this offering document for purposes of, and as that term is defined in, Securities and Exchange Commission Rule 15c2-12, as amended.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

Third parties may engage in transactions that stabilize, maintain or otherwise affect the price of the Series 2023A Notes, including transactions to (i) overallot in arranging the sales of the Series 2023A Notes, and (ii) make purchases and sales of Series 2023A Notes, for long or short account, on a when-issued basis or otherwise, at such prices, in such amounts and in such manner beyond the control of HRTAC.

TABLE OF CONTENTS

[To Be Updated.]

	<u>Page</u>
INTRODUCTION	1
Hampton Roads Transportation Accountability Commission.....	1
Master Indenture Structure and Outstanding HRTF Obligations.....	3
Purpose of the Series 2023A Notes	4
Security and Sources of Payment	5
Validation	6
HAMPTON ROADS TRANSPORTATION FUND	6
General	6
Subject-to-Appropriation.....	7
HRTF Revenues	8
Additional Sales and Use Tax.....	8
Additional Motor Vehicle Fuels Tax	10
Legislative Discretion Regarding HRTF Revenues.....	10
Historical HRTF Revenues.....	11
HRELN PROJECT	12
General	12
Master Agreement for Development and Tolling	13
HRELN Segments	13
HRBT Expansion Project	16
Segment 4C (City of Hampton).....	16
DESCRIPTION OF THE SERIES 2023A NOTES.....	17
General	17
Estimated Sources and Uses of Funds	17
Redemption*.....	17
Book-Entry System.....	18
ESTIMATED DEBT SERVICE REQUIREMENTS	18
Estimated Debt Service Requirements on the Series 2023A Notes*	18
SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES	19
Limited Obligations	19
Pledges Under the Master Indenture.....	20
Outstanding HRTF Bonds	22
Additional Bonds.....	23
Debt Service Reserve.....	24
Flow of Funds.....	24
2023 HRTF TIFIA LOAN AGREEMENT.....	28
Disbursement Conditions.....	29
Repayment Terms.....	31
Prepayment of the 2023 HRTF TIFIA Loan.....	31
TIFIA Debt Service Reserve.....	32
Representations, Warranties and Covenants	33
Events of Default Under the 2023 HRTF TIFIA Loan Agreement.....	34
Remedies	36
2023 Direct Agreement.....	37
HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION.....	38
Hampton Roads Region.....	38
Commission Members.....	38
HRTAC Executive Director	40
HRTAC Annual Budget	41
DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS	41
HRTPO's Long-Range Transportation Plan	41
HRTAC Six-Year Funding Plan	45
Statewide Transportation Plan	45
VDOT Agreements.....	46
Collaborative Planning Process	49
HRTAC Debt Management Plan	50
FORWARD-LOOKING STATEMENTS	52
PROJECTED OPERATING RESULTS AND DEBT SERVICE COVERAGE.....	52
MONTHLY REVENUES.....	56

INVESTMENT CONSIDERATIONS.....	57
The Series 2023A Notes Are Limited Obligations	57
The Series 2023A Notes Are Intermediate Lien Obligations.....	57
Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues	57
Risk of Future Legislative or Court Decisions Affecting Tax-Exempt Obligations	60
No Assurance of Funds Under 2023 HRTF TIFIA Loan Agreement	60
HRTF Transfers to Support Toll Financing	60
Forward-Looking Statements and Forecasts	61
Enforceability of Rights and Remedies, Including Bankruptcy Ramifications	61
Market Liquidity	62
Economic Conditions Affecting the HRTF	62
Risk Arising from Operating and Maintenance Burdens on Commonwealth	63
Impact of Federal Budget Restraints and Federal Tax Policy	63
Infectious Disease Outbreaks.....	63
Hurricanes, Flooding, Sea-Level Rise and Other Natural Risks	64
Cybersecurity.....	64
Fluctuations in Fuel Prices and Fuel Usage May Adversely Affect Additional Motor Vehicle Fuels Tax Revenues.....	64
General Assembly May Enact Exemptions to and Holidays from Taxes	64
Tax Revenues Could Be Eroded by Changes to Planning District 23.....	65
No Right to Accelerate Debt Service	65
No Mortgage or Other Liens.....	66
Limitation on Remedies.....	66
No Redemption of Bonds in the Event of Taxability.....	66
CERTAIN LEGAL MATTERS.....	66
TAX MATTERS	67
Opinion of Bond Counsel.....	67
Original Issue Discount	67
Original Issue Premium	68
Other Tax Matters.....	68
Future Events and Legislative and Regulatory Actions	69
LITIGATION	70
RATINGS.....	70
FINANCIAL STATEMENTS	70
FINANCIAL ADVISOR	70
RELATIONSHIP OF PARTIES.....	71
UNDERWRITING	71
CONTINUING DISCLOSURE.....	72
APPROVAL OF PRELIMINARY OFFICIAL STATEMENT	72
 APPENDIX A: Definitions and Summaries of the Master Indenture and the 2023A Series Supplement	A-1
APPENDIX B: Financial Statements of HRTAC for the Fiscal Year Ended June 30, 2023	B-1
APPENDIX C: Form of Continuing Disclosure Undertaking	C-1
APPENDIX D: Demographic, Economic and Financial Information Regarding Planning District 23 and the Hampton Roads MSA	D-1
APPENDIX E: HRTAC Revenues and Expenses.....	E-1
APPENDIX F: Form of Bond Counsel Opinion	F-1
APPENDIX G: Book-Entry Only System	G-1

OFFICIAL STATEMENT

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

\$ _____ *

**HAMPTON ROADS TRANSPORTATION FUND
INTERMEDIATE LIEN BOND ANTICIPATION NOTES
SERIES 2023A**

INTRODUCTION

The purpose of this Official Statement, including the cover page and Appendices hereto, is to set forth certain information in connection with the issuance by the Hampton Roads Transportation Accountability Commission (“HRTAC” or the “Commission”) of its \$ _____* Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A (the “Series 2023A Notes”).

This information speaks as of its date and is not intended to indicate future or continuing trends in the financial or economic position of HRTAC or of the revenues that will be credited to the Hampton Roads Transportation Fund (the “HRTF”) (as described herein) and transferred to HRTAC. The following material is qualified in its entirety by the detailed information and financial statements appearing elsewhere in this Official Statement, including the Appendices hereto, reference to which is hereby made for all purposes.

Unless otherwise defined in this Official Statement, all capitalized terms shall have the meanings as set forth in Appendix A – “DEFINITIONS AND SUMMARIES OF THE MASTER INDENTURE AND THE 2023A SERIES SUPPLEMENT.”

Hampton Roads Transportation Accountability Commission

HRTAC is a body politic and a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) created pursuant to the Code of Virginia of 1950, as amended (the “Virginia Code”), under Title 33.2, Chapter 26, thereof (the “HRTAC Act”), and empowered to finance and construct highway, bridge and tunnel projects in Planning District 23 of the Commonwealth. Planning District 23 is an area designated by the Virginia Department of Housing and Community Development (“DHCD”) to provide a forum for addressing regional cooperation among local governments in the Hampton Roads region of southeastern Virginia (“Hampton Roads”). As provided by the HRTAC Act, the Commission embraces all of the cities and counties in Planning District 23, which currently include the Counties of Isle of Wight, James City, Southampton, and York, and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg (collectively, the “Member Localities”). All of the Member Localities other than Southampton County and the City of Franklin are located in the Virginia portion of the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area (the “Hampton Roads MSA”), certain economic and demographic information about which is included in Appendix D. Cities and counties in the Commonwealth are independent entities; therefore, the Member Localities do not overlap. Certain local governments, including but not limited to the Member Localities, have agreed to assemble as the Hampton Roads Planning District Commission (“HRPDC”); however, the Member Localities (and sources of taxable transactions generating revenues for the HRTF) are limited to the localities designated by DHCD as constituting Planning District 23 and are not entirely identical to the membership of HRPDC. The membership of the Hampton Roads Transportation Planning

* Preliminary, subject to change.

Organization (“HRTPO”), the federally-mandated metropolitan planning organization for transportation in the Hampton Roads region, is also not exactly the same as the composition of Planning District 23. For example, both the HRPDC and the HRTPO include Gloucester County which is not a Member Locality of HRTAC.

The HRTF was established as a nonreverting fund in the State Treasury under Chapter 766, 2013 Va. Acts of Assembly (“Chapter 766”), enacted on April 3, 2013 and effective July 1, 2013. Pursuant to Chapter 766, the General Assembly of the Commonwealth (the “General Assembly”) dedicated to the HRTF all of the revenues generated by (i) an additional 0.7% retail sales and use tax on transactions occurring within the Member Localities, and (ii) an additional wholesale motor vehicle fuels sales tax on transactions occurring in the Member Localities, which as of July 1, 2023, is at a rate of 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel), subject to an annual adjustment in accordance with the consumer price index (collectively, the “HRTF Revenues”). See “HAMPTON ROADS TRANSPORTATION FUND—HRTF Revenues.”

HRTAC was established under Chapter 545, 2014 Va. Acts of Assembly (“Chapter 545”), enacted on April 3, 2014, to receive the HRTF funds and apply them to (i) funding new construction projects on new or existing highways, bridges, and tunnels in the Member Localities, giving priority to projects expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing within the Member Localities, and (ii) paying the Commission’s administrative and operating expenses as provided in the Commission’s annual budget. See “HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION—HRTAC Annual Budget,” “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS,” and “Table 5: HRTAC Operating Budget, FY 2023” in Appendix E. Although HRTAC has statutory authority to enter into agreements with public or private entities for the operation and maintenance of bridges, tunnels, transit, rail facilities, and highways, the HRTAC Act does not authorize HRTAC to include in its budget any funds to independently operate and maintain such facilities or to perform any transportation service.

HRTAC and the Virginia Department of Transportation (“VDOT”) entered into a Memorandum of Agreement dated March 30, 2015 (the “HRTAC-VDOT MOA”) to set forth terms under which the two entities would cooperate, along with HRTPO, to ensure the efficient and effective development and construction of projects to be funded with HRTF Revenues. To date, all of HRTAC’s projects funded with HRTF Revenues have been part of VDOT’s statewide transportation system. Therefore, consistent with the HRTAC-VDOT MOA, HRTAC and VDOT have entered into standard project agreements (“Standard Project Agreements”) to govern their funding and performance obligations on such projects and a Project Agreement for Funding and Administration (“PAFA”) with respect to the Hampton Roads Bridge Tunnel (“HRBT”) Expansion Project. Under the PAFA and all Standard Project Agreements to date, VDOT has agreed to provide administration of project construction as well as project operation and maintenance. See “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS.”

The 2020 Virginia General Assembly, pursuant to Chapter 703, 2020 Va. Acts of Assembly (“Chapter 703”) and effective July 1, 2020, granted additional and specific tolling authority to HRTAC with respect to high-occupancy toll lanes designated by the Commonwealth Transportation Board (“CTB”) on Interstate 64 from Jefferson Avenue in Newport News to the interchange of Interstate 64, Interstate 264 and Interstate 664 at Bowers Hill in Chesapeake, which lanes, contiguous and in each traffic direction, are known as the “Hampton Roads Express Lanes Network” (the “Express Lanes Network” or “HRELN Project”). See “HRELN PROJECT.” Segment 3 of the Express Lanes Network will run through the HRBT. The funding plan for the HRBT Expansion Project (as described below) anticipates that not less than \$345,000,000 of the funding for such project will be derived through toll-backed financing supported by the Express Lanes Network. **Although toll revenues are a source of funding for the HRELN Project,**

toll revenues are entirely distinct and separate from the HRTF Revenues, and toll revenues will not be pledged to or secure payment of the Series 2023A Notes. Conversely, certain limited transfers of HRTF Revenues described below in “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Transfers of HRTF Revenues from General Fund,” will be made to support the toll-backed financing.

The 2020 Virginia General Assembly, pursuant to Chapters 1241 and 1281, 2020 Va. Acts of Assembly and effective July 1, 2020, also created the Hampton Roads Regional Transit Program and Fund (the “Hampton Roads Regional Transit Fund”) to develop, maintain, and improve a regional network of transit routes and related infrastructure in Planning District 23. The program is funded by an additional (i) regional grantor’s tax at a rate of \$0.06 per \$100 of the consideration for the conveyance, and (ii) effective May 1, 2021, regional transient occupancy tax at a rate of one percent of the charge for the occupancy, both imposed in a transportation district in Hampton Roads as specified in the Virginia Code. **HRTAC manages the Hampton Roads Regional Transit Fund, but it is entirely distinct and segregated from the HRTF and will not be pledged to or secure payment of the Series 2023A Notes.**

Master Indenture Structure and Outstanding HRTF Obligations

The HRTAC Act provides that HRTAC may issue bonds and pledge the funds received from the HRTF as security for such bonds. The Commission has entered into a Master Indenture of Trust dated as of February 1, 2018, as previously supplemented and amended (the “Master Indenture”), between HRTAC and Wilmington Trust, National Association, as trustee (the “Trustee”), under which the Commission is authorized to issue senior lien, intermediate lien, and subordinate lien obligations, as further described herein. See “Table III: Outstanding HRTF Bonds.” The following obligations have been incurred and remain outstanding under the Master Indenture:

Senior Lien Series 2018A Bonds. On February 14, 2018, the Commission issued its \$500,000,000 Senior Lien Revenue Bonds, Series 2018A (the “Series 2018A Bonds”), payable and secured on parity with all senior lien revenue bonds to be issued by the Commission under the Master Indenture (the “Senior Bonds”). On April 19, 2022, the Commission cash defeased \$364,075,000 of the Series 2018A Bonds that mature on July 1 in the years 2031 through 2038 and 2048 through 2057, in accordance with the provisions of the Master Indenture and a defeasance escrow agreement from available amounts in the General Fund, provided, however, that the 2048 maturity of the Series 2018A Bonds was partially defeased in the principal amount of \$23,980,000, leaving a non-defeased principal amount of \$63,125,000 for the 2048 maturity, and a total outstanding principal amount of \$135,925,000 for the Series 2018A Bonds.

Subordinate Lien Series 2019A TIFIA Bond/2021 Successor TIFIA Bond. On December 10, 2019, the Commission issued its \$500,789,463 TIFIA Series 2019A Bond (TIFIA – 20201001A) (the “Original 2019 TIFIA Bond”), payable and secured on parity with all subordinate obligations to be issued by the Commission under the Master Indenture (the “Subordinate Obligations”), which Original 2019 TIFIA Bond the Commission modified and refinanced through its issuance on September 21, 2021 of its \$500,789,463 TIFIA Successor Series 2021 Bond (TIFIA – 20211010A) (the “2021 Successor TIFIA Bond”), having substantially similar terms to the Original 2019 TIFIA Bond but with a reduced interest rate. The proceeds of the 2021 Successor TIFIA Bond were partially drawn to retire the Commission’s \$414,345,000 Intermediate Lien Bond Anticipation Notes, Series 2019A (the “Series 2019A Notes”), which were payable and secured on parity with all intermediate lien revenue bonds to be issued by the Commission under the Master Indenture (the “Intermediate Lien Obligations”), at the Series 2019A BANs’ maturity on July 1, 2022 in accordance with their terms. [The remainder of the proceeds of the 2021 Successor TIFIA Bond have not yet been drawn.]

Senior Lien Series 2020A Bonds. On October 22, 2020, the Commission issued its \$614,615,000 Senior Lien Revenue Bonds, Series 2020A (the “Series 2020A Bonds”), payable and secured on parity with all Senior Bonds issued or to be issued by the Commission under the Master Indenture.

Subordinate Lien 2021 TIFIA Bond. On September 21, 2021, the Commission issued its \$817,990,000 TIFIA Series 2021 Bond (TIFIA – 20211008A) (the “2021 HRTF TIFIA Bond”), payable and secured on parity with all Subordinate Obligations issued or to be issued by the Commission under the Master Indenture. On March 27, 2023, in accordance with the provisions of the Master Indenture and a defeasance escrow agreement, the Commission fully drew the 2021 HRTF TIFIA Bond and utilized such proceeds along with certain funds held by the Trustee to defease the Commission’s \$817,990,000 Senior Lien Bond Anticipation Notes, Series 2021A (the “Series 2021A Notes”), which were payable and secured on parity with all Senior Bonds issued or to be issued by the Commission under the Master Indenture.

Senior Lien Series 2022A Bonds. On May 19, 2022, the Commission issued its \$407,875,000 Senior Lien Revenue Bonds, Series 2022A (the “Series 2022A Bonds”), payable and secured on parity with all Senior Bonds issued or to be issued by the Commission under the Master Indenture.

Intermediate Lien Series 2023A Notes. On _____, 2023, the Commission adopted a resolution authorizing the issuance of the Series 2023A Notes in a principal amount not to exceed \$ _____ pursuant to the Master Indenture and a Tenth Supplemental Series Indenture of Trust to be dated as of _____ 1, 2023 (the “2023A Series Supplement”), between the Commission and the Trustee. The issuance of the Series 2023A Notes is fully authorized by the provisions of the HRTAC Act, the Master Indenture and the 2023A Series Supplement. The Commission anticipates that the Series 2023A Notes will be repaid at their maturity with the proceeds of the 2023 HRTF TIFIA Bond (as hereinafter defined).

The Series 2023A Notes will be paid and secured on parity with all Intermediate Lien Obligations under the Master Indenture, subordinate as to payment and security with the outstanding Series 2018A Bonds, the Series 2020A Bonds, the Series 2022A Bonds, and all Senior Bonds that may be issued in the future, and senior as to payment and security to all Subordinate Obligations.

The Series 2023A Notes, together with all Senior Bonds, Intermediate Lien Obligations and Subordinate Obligations issued previously or in the future under the Master Indenture, are collectively referred to herein as the “Bonds.” For further information, see “Table III: Outstanding HRTF Bonds.”

Purpose of the Series 2023A Notes

HRTAC will use the proceeds of the Series 2023A Notes, along with other available funds, to finance a portion of the costs of Segment 4C of the HRELN Project in anticipation of a draw under the 2023 HRTF TIFIA Loan Agreement (as hereinafter defined) for such purpose (as described below under “INTRODUCTION – Security and Sources of Payment”), to fund capitalized interest on the Series 2023A Notes through July 1, 2025, and to pay costs of issuance of the Series 2023A Notes. See “DESCRIPTION OF THE SERIES 2023A NOTES—Estimated Sources and Uses of Funds.” The HRELN Project is one of the projects in the “FY 2024-2030 Six-Year Operating and Capital Plan of Finance Update for the Region’s High Priority Projects,” which was approved on June 17, 2021 and was updated on June 15, 2023 (the “Six-Year Funding Plan”). See “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS—HRTAC Six-Year Funding Plan.”

TIFIA Background. On _____, HRTAC submitted a letter of interest to the U.S. Department of Transportation (“USDOT”), an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”), expressing its desire to receive

funding under the Transportation Infrastructure Finance and Innovation Act (“TIFIA”). Pursuant to an application for TIFIA credit assistance dated _____, HRTAC requested that USDOT make a direct loan payable from HRTF Revenues on a subordinate basis to HRTAC in a principal amount not to exceed \$[142,720,000]* (the “2023 HRTF TIFIA Loan”) to be used to pay or reimburse a portion of the eligible costs of the HRELN Project. USDOT determined that such application was complete on _____. HRTAC and USDOT are in the final stages of negotiating a loan agreement containing the terms and conditions of such loan (the “2023 HRTF TIFIA Loan Agreement”). HRTAC currently expects to close the 2023 HRTF TIFIA Loan by _____, 2023; however, there can be no assurances that HRTAC will be able to execute and deliver the 2023 HRTF TIFIA Loan Agreement at such time. See “2023 HRTF TIFIA LOAN AGREEMENT.” To evidence the Commission’s obligations under the 2023 HRTF TIFIA Loan Agreement upon the closing thereof, the Commission will issue its \$[142,720,000]* Subordinate Revenue Bond, TIFIA Series 2023 (the “2023 HRTF TIFIA Bond”) pursuant the Master Indenture and a Ninth Supplemental Series Indenture of Trust to be dated as of _____ 1, 2023 (the “TIFIA Series Supplement”), between the Commission and the Trustee. The 2023 HRTF TIFIA Bond will be a subordinate lien obligation under the Master Indenture, constituting Bonds that are specifically subordinate as to payment and security to the Senior Bonds and the Intermediate Lien Obligations. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES.” The Existing HRTF TIFIA Loan Agreements (as hereinafter defined) were implemented under the provision of the TIFIA statute that allows for a waiver of TIFIA’s non-subordination or “springing lien” requirement, and HRTAC anticipates that the 2023 HRTF TIFIA Loan will also be implemented with a waiver from that requirement.

HRTAC is utilizing the proceeds of toll-backed debt as part of the funding plan for the HRELN Project. The TIFIA Lender is also expected to provide the funding for such toll-backed debt, as described below. Toll revenues are not pledged to the payment or security of the Series 2023A Notes.

The issuance of the Series 2023A Notes is contingent upon HRTAC closing the 2023 HRTF TIFIA Loan.

Security and Sources of Payment

The Series 2023A Notes are limited obligations of HRTAC that are payable solely from the funds appropriated by the General Assembly that are pledged under the Master Indenture for such purpose, consisting of the HRTAC Revenues (as defined below). The Series 2023A Notes are subordinate in payment and security with the outstanding Series 2018A Bonds, the Series 2020A Bonds, the Series 2022A Bonds, and any other Senior Bonds that may be issued by HRTAC in the future. The Series 2023A Notes will be payable and secured on parity to any Intermediate Lien Obligations that HRTAC may issue in the future, and will be senior to the 2021 Successor TIFIA Bond, the 2021 HRTF TIFIA Bond, the 2023 HRTF TIFIA Bond, and any other Subordinate Obligations that HRTAC may issue in the future.

The Series 2023A Notes are not a debt of the Commonwealth or any political subdivision thereof (including any Member Locality or any member of the HRTPO or the HRPDC) other than HRTAC, and the Series 2023A Notes do not constitute indebtedness within the meaning of any debt limitation or restriction. Neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions (including any Member Locality or any member of the HRTPO or the HRPDC) is pledged to the payment of the Series 2023A Notes. HRTAC has no taxing powers.

The Series 2023A Notes are not secured by any mortgage or lien on any transportation facilities of HRTAC or VDOT or by any tolls collected at any transportation facility. In the event of a failure to make any payment on the Series 2023A Notes when due, the Trustee and the owners of the Series 2023A Notes

* Preliminary, subject to change.

shall have no right to take possession of any transportation facilities or to exclude HRTAC or VDOT from possession of any transportation facilities. Additionally, in the event of non-payment, the Trustee and the owners of the Series 2023A Notes will have no right to accelerate payment on the Series 2023A Notes.

The “HRTAC Revenues” pledged pursuant to the Master Indenture include (i) all of the revenues appropriated by the General Assembly and transferred by the Commonwealth into the HRTF, (ii) all earnings from the investment of moneys held in any Fund or Account under and as defined in the Master Indenture, and (iii) any other revenues available under the HRTAC Act that may be designated as HRTAC Revenues pursuant to a Supplemental Indenture. The Master Indenture does not permit toll revenues to be pledged to payment of the Bonds issued thereunder (including the Series 2023A Notes). The continued availability of tax revenues for the HRTF is subject to annual appropriation by the General Assembly of the Commonwealth. See “HAMPTON ROADS TRANSPORTATION FUND.”

Validation

On August 15, 2016, the Commission instituted a bond validation proceeding in the Circuit Court for the City of Chesapeake, Virginia (the “Court”). The bond validation was not challenged. On October 7, 2016, the Court entered an Order (the “Order”) by which the Court validated, among other things, the constitutionality and validity of the HRTAC Act, the HRTF, the six-year funding plan then in effect, the Series 2018A Bonds, the pledge of the HRTAC Revenues to the payment of Bonds, and the original version of the Master Indenture. No appeal was taken within the time prescribed in Section 15.2-2656 of the Virginia Code. The Commission is not required by law to obtain validation of any further Bonds and is not seeking any such validation of the Series 2023A Notes.

HAMPTON ROADS TRANSPORTATION FUND

General

The HRTF was established under Chapter 766, effective July 1, 2013. Pursuant to Chapter 766, the General Assembly dedicated to the HRTF all of the additional revenues generated by the imposition of an additional retail sales and use tax, and an additional wholesale motor vehicle fuels sales tax, on transactions occurring within the Member Localities. See “HAMPTON ROADS TRANSPORTATION FUND—HRTF Revenues.” As described in the following section, the continued availability of these tax revenues is subject to annual appropriation by the General Assembly of the Commonwealth.

HRTAC was established under Chapter 545, enacted on April 3, 2014, to receive the HRTF funds and apply them to the financing of (i) new construction projects on new or existing highways, bridges, and tunnels in the Member Localities, and (ii) administrative and operating expenses as provided in the Commission’s annual budget (which under the HRTAC Act shall be limited solely to administrative expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service). Under HRTAC’s existing Standard Project Agreements with VDOT and the PAFA, project construction and expenses for operating and maintaining projects funded by HRTAC are responsibilities of VDOT. See “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS.”

The HRTF was created in the State Treasury to be held by the State Treasurer (the head of the Department of the Treasury) and recorded on the books of the Comptroller of Virginia (the head of the Department of Accounts) as a special non-reverting fund for Planning District 23. The tax revenues dedicated to the HRTF are collected and paid into the State Treasury and credited to the HRTF on a monthly basis. Interest earned on moneys in the HRTF remains in and is credited to the HRTF. Any moneys

remaining in the HRTF, including interest thereon, at the end of each fiscal year of the Commonwealth will not revert to the Commonwealth's general fund, but shall remain in the HRTF. Pursuant to Chapter 608, 2016 Va. Acts of Assembly, enacted on April 1, 2016, the amounts held in the HRTF are distributed to the Commission as soon as practicable for use in accordance with the HRTAC Act. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to the HRTAC Act, the Commission may invest such excess funds in accordance with state law.

Subject-to-Appropriation

The continued availability of the above-described tax revenues for deposit in the HRTF remains subject to annual appropriation by the General Assembly of the Commonwealth, and the General Assembly may eliminate or change the source of funds for the HRTF at any time. Funds already transferred to the HRTF, which is a non-reverting fund, are no longer subject to appropriation but HRTAC continues to rely entirely on the Commonwealth to transmit such funds to HRTAC for inclusion in the HRTAC Revenues.

VDOT agreed, under the HRTAC-VDOT MOA, to annually request (in accordance with the schedule of the Virginia Department of Planning and Budget) for the Governor to include the HRTF Revenues in the budget delivered to the General Assembly for the next succeeding Fiscal Year or biennial period, as applicable. VDOT also agreed to promptly notify HRTAC upon becoming aware of any failure by the General Assembly to appropriate tax revenues to the HRTF. As a practical matter there is no effective remedy if the Governor or the General Assembly fail to provide for HRTF funding in the Commonwealth's Budget. Further, the HRTAC-VDOT MOA provides that VDOT shall bear no responsibility for collecting or depositing the tax revenues in the HRTF.

Under the Virginia Constitution, no appropriation is valid for more than two years and six months after the adjournment of the session of the General Assembly at which the appropriation was made. The General Assembly of the Commonwealth is not obligated to make any future appropriations, and the Commission makes no representation that the General Assembly will keep the HRTF in existence or that appropriations to the HRTF will be made by the General Assembly in any future fiscal year of the Commonwealth.

Enactment Clause 14 of Chapter 766 provides that the provisions of Chapter 766 that generate revenue through the additional state taxes for transportation projects in Planning District 23 shall expire on December 31 of any year in which the General Assembly appropriates or transfers any of such revenues for any non-transportation-related purpose (the "Sunset Provisions"). Accordingly, the appropriation or transfer by the General Assembly of "any" Chapter 766 revenue providing additional revenue for non-transportation related purposes, whether or not related to HRTF revenues, would activate the Sunset Provisions.

The General Assembly has in the past enacted other transportation legislation containing similar sunset provisions, and has from time to time made appropriations of portions of such additional revenue for non-transportation-related purposes which would have activated the applicable sunset provision had the General Assembly not also enacted a savings clause to override such provisions (a "Savings Clause"). The current appropriations act does not appropriate or transfer any of the additional transportation revenues generated by Chapter 766 for any non-transportation-related purpose.

No assurance can be given that the General Assembly will not activate Sunset Provisions in future appropriation acts, and no assurance can be given that, if any Sunset Provision is activated, the General

Assembly will enact a Savings Clause to override it. See “INVESTMENT CONSIDERATIONS—Risks of Non-Appropriation and Future Legislative Actions.”

HRTF Revenues

This section provides a brief description of the taxes which comprise the HRTF Revenues, and is followed by separate sections describing each tax source in greater detail. The HRTF Revenues are derived from the revenues generated from the following taxes that were imposed starting July 1, 2013 on transactions taking place within Planning District 23:

(i) Additional Retail Sales and Use Tax. Section 58.1-638.H.2 of the Virginia Code provides for the deposit in the HRTF of the revenue generated by an additional retail sales and use tax of 0.70 percent imposed on retail sales transactions within the Member Localities other than food purchased for home consumption (the “Additional Sales and Use Tax”).

(ii) Additional Wholesale Motor Vehicle Fuels Sales Tax. Section 58.1-2295.A.2 of the Virginia Code provides for the deposit in the HRTF of the revenue generated by an additional motor vehicle fuels sales tax imposed on each gallon of fuel sold by a distributor to a retail dealer for retail sale in any of the Member Localities, which as of July 1, 2023, is at the rate of 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel), subject to an annual adjustment in accordance with the consumer price index (the “Additional Motor Vehicle Fuels Tax”). Prior to July 1, 2020, the Additional Motor Vehicle Fuels Tax was calculated based on 2.1% of the average statewide wholesale price per gallon, subject, beginning July 1, 2018, to a floor of 6.7 cents per gallon. Effective July 1, 2020, in conjunction with transportation reform legislation that enacted statewide changes to the Commonwealth’s method of funding transportation, the Additional Motor Vehicle Fuels Tax was changed to a per gallon rate, subject to an annual adjustment in accordance with the consumer price index, and the floor rate was eliminated. On July 1, 2023 the tax rate was adjusted in accordance with the authorizing legislation to 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel) for Fiscal Year 2024.

For alternative fuels other than liquid alternative fuels, the Commissioner of the Virginia Department of Motor Vehicles (“DMV”) shall determine an equivalent tax rate based on gasoline gallon equivalency. The Additional Motor Vehicle Fuels Tax is imposed at the time of sale by the distributor to the retail dealer and collected by the distributor. The Additional Motor Vehicle Fuels Tax shall be a debt from the retail dealer to the distributor until paid and shall be recoverable at law in the same manner as other debts. At present, the DMV Commissioner has not determined an equivalent tax rate for alternative fuels, and alternative fuels are not a component of the Additional Motor Vehicle Fuels Tax.

Additional Sales and Use Tax

The Additional Sales and Use Tax is administered and collected by the State Tax Commissioner, the head of the Virginia Department of Taxation, in the same manner and subject to the same penalties as provided for the statewide retail sales and use tax. The receipts of the Additional Sales and Use Tax are deposited into the State Treasury and then credited by the Comptroller of Virginia to the HRTF. In accordance with the HRTAC-VDOT MOA, VDOT provides monthly notice to HRTAC of the Additional Sales and Use Tax collection amounts. This usually occurs during the third week of the month. The revenues are typically transferred into the HRTF within a week after such notice. HRTAC is entirely dependent on the Virginia Department of Taxation, the Virginia Department of Treasury and the Virginia Department of Accounts to collect and deposit the Additional Sales and Use Tax revenues in the HRTF and to transfer them to HRTAC for inclusion in the HRTAC Revenues.

The Additional Sales and Use Tax is imposed upon transactions in the Member Localities in addition to the statewide retail sales and use tax of 4.3% and the local option retail sales and use tax of 1.0% used by the Commonwealth and its localities for other purposes. Consumers therefore pay a total of 6% in sales and use taxes on retail transactions occurring in the Member Localities. HRTAC does not receive any revenues from the statewide or local option retail sales and use taxes, but only receives the proceeds of the 0.7% Additional Sales and Use Tax.

Under Virginia law, retail sales taxes are imposed on transactions involving (i) the business of selling at retail or distributing tangible personal property; (ii) the leasing or rental of tangible personal property as part of an established business; (iii) the storing for use or consumption in the Commonwealth of any item or article of tangible personal property or leasing or renting such property within the Commonwealth; (iv) the finishing of transient accommodations; or (v) the selling of certain services. The tax on sales is based on the gross sales price of each item or article of tangible personal property. The seller collects the tax from the customer by separately stating the amount of the tax and adding it to the sales price or charge. The tax on accommodations, leases and rentals, which is based upon the lessor's gross proceeds from the leases and rentals, is collected by the lessor by separately stating the amount of tax and adding it to the charge made to the lessee. The tax on items or articles of tangible personal property stored in the Commonwealth for use or consumption in the Commonwealth is based on the cost price of each item or article. The tax on taxable services is based on the gross sales price of the services.

Under Virginia law, use taxes are imposed on the use or consumption of tangible personal property throughout the Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in the Commonwealth. This tax applies to (i) tangible personal property purchased outside the Commonwealth that would have been subject to sales tax if purchased in the Commonwealth, and (ii) purchases, leases or rentals made in the Commonwealth if the sales tax was not paid at the time of purchase, lease or rental. In general, the use tax is based on the cost price of each item or article of tangible personal property used or consumed in the Commonwealth or the cost price of each item or article of tangible personal property stored outside the Commonwealth for use or consumption in the Commonwealth.

The Commonwealth requires all dealers with nexus to the Commonwealth to collect and remit applicable retail sales and use tax. In South Dakota v. Wayfair, 138 S. Ct. 2080 (2018), the U.S. Supreme Court held for the first time that states have the authority to collect sales tax directly from out-of-state sellers having no physical presence in the taxing state. In 2019, the Virginia General Assembly enacted Chapter 815, Acts of Assembly, which became effective on July 1, 2019 and provides uniform nexus requirements for remote sellers, marketplace facilitators, and marketplace sellers. Dealers with no Virginia physical presence are required to collect and remit sales tax if they have more than \$100,000 in Virginia gross sales or complete greater than 200 separate transactions in Virginia during the current or previous calendar year.

The Virginia Code provides various exclusions and exemptions from the retail sales and the use tax. For example, the sales and use tax is not levied upon medicines, certain purchases by nonprofit entities, certain agricultural supplies and commodities, certain industrial materials and machinery, supplies used to produce publications, and certain commercial computer equipment. Sales and use taxes are not imposed on food for human consumption except under the 1% local option sales tax described above (which is not included in the tax sources for the HRTF). Further exemptions or other legislative proposals affecting sales and use taxes may arise in the future. See "INVESTMENT CONSIDERATIONS – General Assembly May Enact Exemptions to and Holidays from Taxes."

Additional Motor Vehicle Fuels Tax

The Additional Motor Vehicle Fuels Tax is administered and collected by distributors in each Member Locality and paid to the Commissioner of the Department of Motor Vehicles (the “DMV”) each month. The distributor is required to collect the tax from the retail dealer by separately stating the amount of the tax and adding it to the sales price or charge. Distributors are required to remit the collected amounts to the DMV by midnight of the 20th day of the second month succeeding the month of collection. However, remittance of the tax for the month of May must be received by the DMV no later than the last business day of June. Once received by the DMV, revenues from the Additional Motor Vehicle Fuels Tax are credited by the Comptroller of Virginia to the HRTF on a monthly basis and are thereafter distributed to HRTAC as soon as practicable. HRTAC is entirely dependent on the Virginia Department of Taxation, the DMV and the Virginia Department of Accounts to collect and deposit the Additional Motor Vehicle Fuels Tax revenues in the HRTF and to transfer them to HRTAC for inclusion in the HRTAC Revenues.

The Additional Motor Vehicle Fuels Tax is imposed upon transactions in the Member Localities and is in addition to the statewide motor vehicle fuels tax, used by the Commonwealth for other purposes. Prior to July 1, 2020, the statewide motor vehicle fuels tax was 5.1% of the statewide average wholesale price of a gallon of unleaded regular gasoline for a trailing six-month base period, subject to a designated floor price of \$3.17 per gallon. Legislation enacted by the 2020 Virginia General Assembly converted the then-existing tax rate, which equated to a rate of \$0.162 per gallon, to a cents-per-gallon rate of \$0.262 per gallon of gasoline, which rate is phased in by increasing the rate by \$0.05 per gallon each year over two years and then indexed to changes in the consumer price index.

HRTAC does not receive any revenue from the statewide motor vehicle fuels tax, but instead receives the proceeds of the Additional Motor Vehicle Fuels Tax imposed on sales of fuel by distributors at wholesale to retail dealers for retail sales in the Member Localities, at a current rate of 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel), subject to an annual adjustment in accordance with the consumer price index. Unlike the change in the statewide motor vehicle fuels tax, the change in the Additional Motor Vehicle Fuels Tax was effective July 1, 2020 with no phase-in period. Further legislative proposals affecting the statewide motor vehicle fuels tax may arise from time to time. See “INVESTMENT CONSIDERATIONS – General Assembly May Enact Exemptions to and Holidays from Taxes.”

Legislative Discretion Regarding HRTF Revenues

There is no assurance that the taxes comprising the HRTF Revenues will remain in effect or will continue at the current levels. The General Assembly is under no obligation to continue to impose the taxes that comprise the HRTF Revenues or appropriate the HRTF Revenues to pay debt service. See “INVESTMENT CONSIDERATIONS – Risks of Non-Appropriation and Future Legislative Actions or Administrative Actions Affecting Revenues” herein.

HRTAC makes no representation that the General Assembly will not make HRTF Revenues available as a source of payment for other transportation programs, including revenue bonds issued for other programs, or otherwise materially modify or amend the legislation creating or pertaining to the HRTF, the Additional Sales and Use Tax or the Additional Motor Vehicle Fuels Tax. While proposals to modify or amend the legislation with respect to the HRTF, the Additional Sales and Use Tax or the Additional Motor Vehicle Fuels Tax may arise from time to time, any such proposal would need General Assembly approval to become effective.

Additionally, HRTAC can provide no assurance that the General Assembly will not appropriate or transfer HRTF Revenues for non-transportation purposes activating the Sunset Provisions which if not cured would result in the termination of the Additional Sales and Use Tax or the Additional Motor Vehicle Fuels Tax. “See “INVESTMENT CONSIDERATIONS – Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues,” herein.

Historical HRTF Revenues

The following Table I shows historical receipts from the two HRTF Revenue sources. Aggregate HRTF Revenues in Fiscal Years 2021, 2022, and 2023 were approximately \$227.6 million, \$[243.5] million and \$____ million respectively, an increase in Fiscal Year 2023 HRTF Revenues of approximately ____% and ____% compared to Fiscal Years 2022 and 2021, respectively. See also “Table X: HRTF Revenues on a Monthly Basis” for the HRTF Revenues on a monthly basis and see also “Table 1: HRTF Revenues” in Appendix E for the presentation of Additional Sales and Use Tax and Additional Motor Vehicle Fuels Tax by jurisdiction, including the presentation of such information on a monthly basis.

[Remainder of page intentionally left blank]

Table I
Historical Hampton Roads Transportation Fund Revenues (in Millions)^{(1), (2)}

<u>Source</u>	<u>FY</u> <u>2016</u>	<u>FY</u> <u>2017</u>	<u>FY</u> <u>2018</u>	<u>FY</u> <u>2019⁽⁵⁾</u>	<u>FY</u> <u>2020⁽¹⁾</u>	<u>FY</u> <u>2021</u>	<u>FY</u> <u>2022</u>	<u>FY</u> <u>2023</u>
Additional Sales and Use Tax ⁽³⁾	\$126.5	\$131.5	\$136.5	\$144.6	\$146.2	\$171.6	\$184.9	\$_____
Additional Motor Vehicle Fuels Tax ⁽⁴⁾	<u>26.7</u>	<u>25.0</u>	<u>32.7</u>	<u>81.1⁽⁴⁾</u>	<u>55.0</u>	<u>56.0</u>	<u>58.7</u>	_____
TOTAL⁽⁶⁾:	<u>\$153.2</u>	<u>\$156.5</u>	<u>\$169.2</u>	<u>\$225.7</u>	<u>\$201.2</u>	<u>\$227.6</u>	<u>\$1243.5</u>	<u>\$_____</u>

Source: HRTAC.

(1) At the end of Fiscal Year 2020, the Commission changed its accounting policy for recognizing revenue in order to match the Virginia Department of Transportation's income, and thus accrued two months of Sales and Use tax and three months of Motor Fuels tax as receivables and revenue for the Fiscal Year ended June 30, 2020. This was a change from prior years where the Commission accrued one month of each of such taxes. This change in accounting and revenue recognition was made due to additional information provided by the agencies that collect and remit the taxes on behalf of the Commission. Accordingly, Fiscal Years 2014 – 2018 reflect 12 months of each of the two revenue sources, but Fiscal Year 2019 reflects a total of 13 months of Additional Sales and Use Tax (with the amount of the Additional Sales and Use tax for the 13th month being \$5.21 million) and 14 months of Additional Motor Vehicle Fuels Tax (with the amount of the Additional Motor Vehicle Fuels Tax for such months being \$9.42 million), while Fiscal Year 2020 reverts to 12 months of each. The Commission did not undertake a formal restatement of its financial statements for fiscal years prior to Fiscal Year 2020.

(2) The Commission's fiscal year ends on June 30.

(3) The Accelerated Retail Sales and Use Tax paid in June, commencing in Fiscal Year 2015, lapsed in June 2022.

(4) Effective as of July 1, 2018, the General Assembly established a wholesale price floor for deriving the Additional Motor Vehicle Fuels Tax, as described above. Effective July 1, 2020, the General Assembly changed the tax rate to 7.6 cents per gallon on gasoline and gasohol (and 7.7 cents per gallon on diesel), subject to an annual adjustment in accordance with the consumer price index. Beginning on July 1, 2023 the tax rate was adjusted in accordance with the authorizing legislation to 8.7 cents per gallon on gasoline and gasohol (and 8.8 cents per gallon on diesel).

(5) Included \$11 million special audit assessment adjustments resulting from vendor audit settlements.

(6) Totals may not add due to rounding.

Note: Table I reflects use of the accrual method of accounting and FY 2019 amounts differ than those set forth in Table X due to the inclusion of more than 12 months of revenues described in Footnote (1).

HRELN PROJECT

General

Pursuant to Chapter 703 and effective July 1, 2020, as codified at Section 33.2-2612 of the Virginia Code, the General Assembly granted additional and specific tolling authority to HRTAC for a network of planned contiguous high-occupancy toll lanes or other dynamically-priced travel 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, which ultimately would enable continuous high occupancy lane travel throughout such corridor. When complete, the HRELN Project will consist of a continuous 46-miles in each traffic direction.

Chapter 703 further provides that HRELN tolls shall be collected by an electronic toll system that, to the extent possible, shall not impede the traffic flow, and such tolls may only be imposed on a portion of the HRELN Project that has been designated as high-occupancy toll lanes by the CTB pursuant to Section

33.2-502 of the Virginia Code. The amount of the tolls shall be varied by congestion level. All such tolls may be used for programs and projects that are reasonably related to or that benefit users of the HRELN and, without limiting the foregoing, may be used to pay the debt service on and related reserves and financing costs for, and pledged to support, bonds and other evidences of indebtedness the proceeds of which are or were used for construction or improvement of the facility.

The Series 2023A Notes will not be paid from or secured by any toll revenues.

Master Agreement for Development and Tolling

Chapter 703 requires that prior to the imposition of tolls with respect to the HRELN Project, the Commission shall enter into an agreement with the CTB and VDOT that (i) sets the standards for the operations of the HRELN, including the collection of tolls; (ii) addresses the use and application of toll revenues and toll-backed debt proceeds and the reimbursement of any funds expended by the CTB or VDOT to convert any portion of the facility from high-occupancy vehicle lanes to high-occupancy toll lanes, as these terms are defined in Section 33.2-500 of the Virginia Code; and (iii) contains such other provisions deemed appropriate and necessary to ensure the safe and efficient operations of the general purpose and high-occupancy toll lanes on any portion of the HRELN where the Commission intends to exercise the tolling authority provided by Chapter 703.

In satisfaction of Chapter 703's requirement for such an agreement, on August 18, 2020, the Commission, the CTB, and VDOT entered into the Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (the "Master Tolling Agreement") 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 HRELN, including the design, construction, installation, testing and implementation of the tolling infrastructure and system, (ii) the tolling policies, (iii) the imposition, collection, and enforcement of tolls, (iv) the operation and maintenance of the tolling infrastructure and system, the high-occupancy toll lanes and the applicable Interstate 64 facilities, and (v) the uses of certain toll revenues and the proceeds of toll-backed debt.

HRELN Segments

The HRELN Project is divided into various segments.

- Segment 1 – Existing Reversible Express Lanes Segment (I-264 to I-564)
 - Segment 1A – Norfolk Segment (Tidewater Drive to Patrol Road)
 - Segment 1B – Norfolk Segment (I-264 to Tidewater Drive)
- Segment 2A – High Rise Bridge Project (Bowers Hill to I-464)
- Segment 2B – Chesapeake Segment (I-464 to I-264)
- Segment 3 – Hampton Roads Bridge-Tunnel (Patrol Road to East of Settlers Landing Road)
- Segment 4A/4B – Newport News Segment (LaSalle Avenue to Denbigh Boulevard)
- Segment 4C – Hampton Segment (East of Settlers Landing Road to LaSalle Avenue)

The proceeds of the Series 2023A Notes, along with other available funds, will be used to finance a portion of the costs of Segment 4C of the HRELN Project. For additional information regarding the current status of development and construction of certain segments of the HRELN, see the following subsections “– HRBT Expansion Project” and “– Segment 4C (City of Hampton),” and “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS – VDOT Agreements.”

The following map shows the various segments comprising the HRELN Project.

[Remainder of page intentionally left blank]

HRBT Expansion Project

Interstate 64 (“I-64”) is the only interstate that serves Hampton Roads. The various segments of the Express Lanes Network run through I-64 in the region, with Segment 3 including the HRBT. The “HRBT Expansion Project” is intended to address severe traffic congestion at the existing HRBT by increasing capacity and upgrading approximately ten miles of I-64 between east of the Settlers Landing Road interchange in Hampton, Virginia and Tidewater Drive west of the Interstate 64/Interstate 564 (“I-564”) interchange in Norfolk, Virginia. The 3.5 mile-long HRBT was originally placed in service in 1957, and was expanded to its current four lane configuration in 1976.

While the proceeds of the Series 2023A Notes will finance Segment 4C and not the HRBT Expansion Project (see the subsection “– Segment 4C (City of Hampton)” below), the HRBT Expansion Project is a central component of the HRELN Project. For over three decades, public and area leaders have consistently identified persistent and significant traffic congestion and delays at the HRBT as an important issue for the Hampton Roads region, with vehicles routinely queuing for miles in each direction. More than 90,000 vehicles use the existing HRBT daily, seasonally exceeding 100,000 vehicles per day, which represents about half of all traffic crossing the James River/Hampton Roads water body between the lower “Peninsula” formed by the James and York Rivers and South Hampton Roads. HRBT is part of the Hampton Roads Beltway, an approximate 55-mile loop of I-64 and I-664, encircling the metropolitan area. Likewise, the HRBT is an important regional transportation link for residential, commercial, industrial, and military mobility.

The HRBT Expansion Project will widen I-64 for approximately ten miles, including the 3.5-mile long water crossing to create an eight lane bridge-tunnel facility with six consistent lanes. The expanded facility will include four general purpose lanes (two in each direction), two new High Occupancy Toll (“HOT”) lanes (one in each direction) and two new drivable (hard-running) shoulders (one in each direction) to be used as HOT lanes during certain times of the day. The HOT lanes will be incorporated into the Express Lanes Network, as part of Segment 3.

[Place-saver for update on HRBT Project]

Segment 4C (City of Hampton)

HRTAC will use the proceeds of the Series 2023A Notes, along with other available funds, to finance a portion of the costs of Segment 4C of the HRELN Project, which is contiguous to the HRBT Expansion Project (Segment 3). Segment 4C consists of the widening of eastbound and westbound I-64 from 0.139 miles East of LaSalle Avenue to 0.379 miles East of Settlers Landing Road on I-64 in Hampton and the conversion of the three existing eastbound and westbound general purpose lanes in each direction into two new HOT lanes (one in each direction) and two new drivable (hard-running) shoulders (one in each direction) to be used as HOT lanes during certain times of the day and two general purpose lanes (in each direction), all pursuant to the terms of HRTAC’s Standard Project Agreement for Funding and Administration between HRTAC and VDOT, executed on April 1, 2021, for Segment 4C Preliminary Engineering (Phase 1 PE), and Standard Project Agreement for Funding and Administration between HRTAC and VDOT, executed on December 16, 2021, as amended, for Segment 4C (Full Build Potential Scope) Project. See also “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS – VDOT Agreements.” The expected completion date for Segment 4C is _____.

DESCRIPTION OF THE SERIES 2023A NOTES

General

The Series 2023A Notes will be issued as fully registered notes in book-entry form. The Series 2023A Notes will be dated their date of delivery, will be issued in denominations of \$5,000 or integral multiples of \$5,000, and will bear interest from the dated date thereof, payable semiannually on each January 1 and July 1, beginning _____ 1, 202_, * at the rate and will mature on the date and in the amount set forth on the inside front cover of this Official Statement. Interest on the Series 2023A Notes will be computed on the basis of a year of 360 days and twelve 30-day months. Interest will be payable to the registered owners of the Series 2023A Notes at their addresses as they appear on the fifteenth day of the month preceding the interest payment date on the registration books kept by the Trustee. Principal of, premium, if any, and interest on the Series 2023A Notes will be paid by the Trustee to The Depository Trust Company (“DTC”) for distribution to its Direct and Indirect Participants (as defined in [Appendix G](#)). See “DESCRIPTION OF THE SERIES 2023A NOTES—Book-Entry System” herein, and [Appendix G](#).

The issuance of the Series 2023A Notes is contingent upon HRTAC closing the 2023 HRTF TIFIA Loan Agreement. The conditions precedent to closing under the 2023 HRTF TIFIA Loan Agreement are distinct from the conditions necessary for disbursement. The 2023 HRTF TIFIA Loan Agreement provides for significant conditions prior to the disbursement of the 2023 HRTF TIFIA Loan proceeds. See “2023 HRTF TIFIA LOAN AGREEMENT—Disbursement Conditions.”

Estimated Sources and Uses of Funds

Set forth below are the expected amounts and components of the proceeds of the sale of the Series 2023A Notes and the application of the proceeds on the date of delivery of the Series 2023A Notes:

Sources:

Principal Amount of Series 2023A Notes	\$ _____
[Net] Original Issue [Premium][Discount]	_____
Total Sources:	<u>\$ _____</u>

Uses:

Deposit to Project Fund	\$ _____
Deposit to Capitalized Interest Subaccount ⁽¹⁾	_____
Issuance Expenses ⁽²⁾	_____
Total Uses:	<u>\$ _____</u>

⁽¹⁾ Capitalized interest is funded through July 1, 2025.

⁽²⁾ Includes Underwriter’s discount, legal fees, printing costs, financial advisor fees, etc. See “UNDERWRITING.”

Redemption*

The Series 2023A Notes are not subject to redemption prior to maturity.

* Preliminary, subject to change.

Book-Entry System

The Series 2023A Notes will be available only in book-entry form. DTC will act as securities depository for the Series 2023A Notes. The Series 2023A Notes will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for the Series 2023A Notes and will be deposited with DTC. See Appendix G.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2023A NOTES, AS NOMINEE OF DTC, REFERENCES IN THIS OFFICIAL STATEMENT TO THE OWNERS OF THE SERIES 2023A NOTES SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS, AND CEDE & CO. WILL BE TREATED AS THE ONLY OWNER OF THE SERIES 2023A NOTES FOR ALL PURPOSES UNDER THE MASTER INDENTURE AND THE 2023A SERIES SUPPLEMENT.

Neither the Commission nor the Trustee has any responsibility or obligation to the Direct or Indirect Participants (as defined in Appendix G) or the Beneficial Owners with respect to (a) the accuracy of any records maintained by DTC or any Direct or Indirect Participant; (b) the payment by any Direct or Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of, premium, if any, and interest on the Series 2023A Notes; (c) the delivery or timeliness of delivery by any Direct or Indirect Participant of any notice to any Beneficial Owner that is required or permitted under the terms of the Master Indenture to be given to Noteholders; or (d) any other action taken by DTC, or its nominee, Cede & Co., as Noteholder, including the effectiveness of any action taken pursuant to an Omnibus Proxy.

ESTIMATED DEBT SERVICE REQUIREMENTS

The following Table II sets forth for each fiscal year the estimated principal and interest payments on the Series 2023A Notes, as of the date of issuance of the Series 2023A Notes. ***Table II should be reviewed in conjunction with Table IX herein, which includes projected debt service requirements for HRTAC's Senior Bonds, including the Series 2022A Bonds, the Series 2020A Bonds, and the outstanding Series 2018A Bonds; Intermediate Lien Obligations, including the Series 2023A Notes; and Subordinate Obligations, including the 2021 HRTF TIFIA Bond, the 2021 Successor TIFIA Bond, and the 2023 HRTF TIFIA Bond.***

Table II
Estimated Debt Service Requirements on the Series 2023A Notes *

<u>Payment Date</u>	<u>Principal</u> ⁽¹⁾	<u>Interest</u> ⁽²⁾	<u>Total Debt Service</u>
1/1/20__	\$	\$	\$
7/1/20__			
1/1/20__			
7/1/20__			
1/1/20__			
7/1/20__			
1/1/20__			
7/1/20__			
1/1/20__			

7/1/20

Total

\$

- * Preliminary, subject to change.
- (1) HRTAC expects to pay the principal installment on July 1, 20__, the maturity date of the Series 2023A Notes, from expected disbursements under the 2023 HRTF TIFIA Loan Agreement. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES—Payment of Interest and Principal.”
- (2) Capitalized interest will be funded at closing for interest payments through July 1, 2025.

SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES

Limited Obligations

The Series 2023A Notes are limited obligations of HRTAC and are payable solely as Intermediate Lien Obligations from the revenues, moneys and other property pledged by the Master Indenture for such purpose, consisting of the HRTAC Revenues. The pledged HRTAC Revenues include (i) the amounts credited by the Comptroller of Virginia to the HRTF and transferred to HRTAC, including the Additional Sales and Use Tax revenues and the Additional Motor Vehicle Fuels Tax revenues, (ii) all earnings from the investment of moneys held in any Fund or Account under and as defined in the Master Indenture, and (iii) any other revenues available under the HRTAC Act that pursuant to a Supplemental Indenture may be hereafter designated as HRTAC Revenues. The availability of such Additional Sales and Use Tax revenues and Additional Motor Vehicle Fuels Tax revenues for deposit into the HRTF is subject to annual appropriation by the General Assembly, and the General Assembly may eliminate or change such taxes and fees at any time. The receipt of such funds is also conditioned upon their use for transportation-related purposes, specifically new construction projects on new or existing highways, bridges or tunnels in the Member Localities. See “HAMPTON ROADS TRANSPORTATION FUND—Subject-to-Appropriation” above.

It is anticipated that the Series 2023A Notes will be paid at their maturity of July 1, 20__ from a disbursement made to HRTAC under the 2023 HRTF TIFIA Loan Agreement, and the issuance of the Series 2023A Notes is contingent upon HRTAC closing the 2023 HRTF TIFIA Loan. The realization of amounts to be derived upon the enforcement of the Series 2023A Notes will depend upon the exercise and effectiveness of the remedies specified in the Master Indenture. These and other remedies may, in many respects, require judicial action of a nature that is often subject to discretion and delay. Under existing laws, the remedies specified in the Master Indenture may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2023A Notes will be qualified as to the enforceability of various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies and by bankruptcy, fraudulent conveyance, reorganization and other laws affecting the enforcement of creditors’ rights generally. See “INVESTMENT CONSIDERATIONS—Limitation on Remedies” herein, and “THE MASTER INDENTURE—Events of Default and Remedies Upon Default” in Appendix A.

The Series 2023A Notes are not a debt of the Commonwealth or any political subdivision thereof (including any Member Locality or any member of the HRTPO or the HRPDC) other than the Commission, and the Series 2023A Notes do not constitute indebtedness within the meaning of any debt limitation or restriction. Neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions (including any Member Locality or any member of the HRTPO or the HRPDC) is pledged to the payment of the Series 2023A Notes. The Commission has no taxing powers.

Pledges Under the Master Indenture

Intermediate Lien Obligations. The Series 2023A Notes are being issued as Intermediate Lien Obligations under the Master Indenture. The Series 2023A Notes are payable as to principal and interest from, and secured by, a pledge of HRTAC Revenues that is subordinate to the payment of principal of and interest on all outstanding Senior Bonds, including the Series 2018A Bonds, the Series 2020A Bonds, the Series 2022A Bonds, on parity with all Intermediate Lien Obligations, and senior to all Subordinate Obligations, including the 2021 Successor TIFIA Bond, the 2021 HRTF TIFIA Bond, and the 2023 HRTF TIFIA Bond.

Indenture Accounts. With respect to the Series 2023A Notes, the 2023A Series Supplement establishes solely for the benefit of the Owners of the Series 2023A Notes, the Series 2023A Interest Account, the Series 2023A Capitalized Interest Subaccount, the Series 2023A Principal Account, the Series 2023A Costs of Issuance Fund and the Series 2023A Project Fund, which are pledged exclusively to secure the obligations of HRTAC to the Owners of the Series 2023A Notes. The Series 2023A Rebate Account is created exclusively to make certain payments, if any, to maintain the federal tax-exempt status of the Series 2023A Notes, and is not pledged to the repayment of the Series 2023A Notes.

Payment of Interest and Principal. On the date of issuance of the Series 2023A Notes, \$_____ will be deposited into the Series 2023A Capitalized Interest Subaccount to pay interest on the Series 2023A Notes through July 1, 2025. Interest to be paid on the Series 2023A Notes, if the Series 2023A Capitalized Interest Subaccount has insufficient funds for such purpose, shall be paid from the HRTAC Revenues, subject to the prior application of such funds as described below under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES—Flow of Funds.”

It is anticipated that the Series 2023A Notes will be paid at their maturity from a disbursement made to HRTAC under the 2023 HRTF TIFIA Loan Agreement, and the issuance of the Series 2023A Notes is contingent upon HRTAC closing the 2023 HRTF TIFIA Loan. In the event that disbursements received under the 2023 HRTF TIFIA Loan Agreement are insufficient to pay the principal on the 2023A Notes in full on their maturity date or HRTAC does not meet the conditions for disbursement of moneys under the 2023 HRTF TIFIA Loan Agreement or is otherwise unable to effect draws thereunder, HRTAC will use its best efforts to find an alternative refinancing solution, which could include the issuance of rollover bond anticipation notes and/or other Bonds secured by HRTAC Revenues under the Master Indenture; otherwise the Series 2023A Notes shall be paid from HRTAC Revenues or available amounts from the General Fund, subject to the prior application of such funds as described below under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds” which would include the prior payment of scheduled debt service on Senior Bonds.

Under the 2023 HRTF TIFIA Loan Agreement, the TIFIA Lender agrees to extend the 2023 HRTF TIFIA Loan to HRTAC in an aggregate principal amount not to exceed \$[142,720,000],* and HRTAC will deliver to the TIFIA Lender the 2023 HRTF TIFIA Bond as a Subordinate Obligation to evidence HRTAC's obligation to repay the 2023 HRTF TIFIA Loan. The outstanding principal amount of the 2023 HRTF TIFIA Bond will increase in an amount equal to the advances made by the TIFIA Lender to HRTAC under the 2023 HRTF TIFIA Loan Agreement. HRTAC expects to make a single requisition under the 2023 HRTF TIFIA Loan on or before July 1, 20__, within one year after substantial completion of Segment 4C of the HRELN Project, and to apply such amount to pay the Series 2023A Notes at their maturity.

As more particularly described under “2023 HRTF TIFIA LOAN AGREEMENT,” there are numerous conditions that must be satisfied by HRTAC in connection with the requisitioning of moneys

* Preliminary, subject to change.

under the 2023 HRTF TIFIA Loan Agreement, including certain conditions relating to third parties, such as VDOT, over which HRTAC has no control. In addition, the TIFIA Lender may refuse to honor a requisition if, among other things, an event of default under the 2023 HRTF TIFIA Loan Agreement or certain other material contracts has occurred and is continuing, or if HRTAC or certain other parties are not in compliance with federal law or their obligations under certain material contracts. See “2023 HRTF TIFIA LOAN AGREEMENT – Disbursement Conditions,” and “INVESTMENT CONSIDERATIONS – No Assurance of Funds under 2023 HRTF TIFIA Loan Agreement.” HRTAC agreed in the 2023A Series Supplement to take all actions necessary to ensure that it could requisition sufficient moneys under the 2023 HRTF TIFIA Loan Agreement to pay the principal of the Series 2023A Notes on their maturity date.

Existing HRTF TIFIA Loan Agreements. The 2021 Successor TIFIA Bond and the 2021 HRTF TIFIA Bond are subordinate in payment and security to all Senior Bonds and Intermediate Lien Obligations, including the Series 2023A Notes, although the Commission has agreed to certain mandatory prepayment provisions, including in the event of a “Revenue Sharing Trigger Event,” under the terms of, respectively, the Successor 2019/2021 TIFIA Loan Agreement dated September 21, 2021, between USDOT and HRTAC (the “Successor 2019/2021 TIFIA Loan Agreement”), and the TIFIA Loan Agreement (HRTF Revenues) dated September 21, 2021, between USDOT and HRTAC (the “2021 HRTF TIFIA Loan Agreement,” and together with the Successor 2019/2021 TIFIA Loan Agreement, the “Existing HRTF TIFIA Loan Agreements”). Such prepayment provisions in the event of a “Revenue Sharing Trigger Event” are identical to those expected to be included in the 2023 HRTF TIFIA Loan Agreement and are described under “2023 HRTF TIFIA LOAN AGREEMENT – Prepayment of 2023 HRTF TIFIA Loan,” herein. Pursuant to the Existing HRTF TIFIA Loan Agreements, the TIFIA Lender extended direct loans, respectively, in an aggregate principal amount not to exceed \$500,789,463 (the “2021 Successor TIFIA Loan”) and in an aggregate principal amount not to exceed \$817,990,000 (the “2021 HRTF TIFIA Loan,” together with the 2021 Successor TIFIA Loan, the “Existing HRTF TIFIA Loans”). HRTAC issued and delivered to the TIFIA Lender the 2021 Successor TIFIA Bond as a Subordinate Obligation to evidence HRTAC’s obligation to repay the 2021 Successor TIFIA Loan and the 2021 HRTF TIFIA Bond as a Subordinate Obligation to evidence HRTAC’s obligation to repay the 2021 HRTF TIFIA Loan. The 2021 Successor TIFIA Bond was partially drawn to retire the Series 2019A Notes at their maturity on July 1, 2022, in accordance with their terms. The 2021 Successor TIFIA Bond is expected to be fully drawn in fall 2024 in connection with the completion of the applicable projects. The 2021 HRTF TIFIA Bond was drawn in full to defease the Series 2021A Notes on March 27, 2023.

The Commission is also a party to the 2021 Toll TIFIA Loan Agreement (as defined below). See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Pledges Under the Master Indenture -- No Toll Revenues.”

No Mortgage, Lien or Acceleration. The Series 2023A Notes are not secured by any mortgage or lien on any transportation facilities of the Commission, VDOT, the Commonwealth, or any of the Member Localities or by a pledge of the revenues derived from any such facility. In the event of a failure to make any payment on the Series 2023A Notes when due, neither the Trustee nor the owners of the Series 2023A Notes shall have any right to take possession of any transportation facilities or to exclude the Commission, VDOT, the Commonwealth, or any of the Member Localities from possession of them, nor shall there be any right to accelerate payment of the Series 2023A Notes.

No Toll Revenues. The Series 2023A Notes will not be paid from or secured by any toll revenues. The Commission has entered into the 2021 Toll TIFIA Loan Agreement (the “2021 Toll TIFIA Loan Agreement”) between the Commission and the TIFIA Lender, with the obligation of the Commission to repay the loan under the 2021 Toll TIFIA Loan Agreement evidenced by an obligation under a Master Indenture of Trust between the Commission and U.S. Bank Trust Company, National Association, as

trustee, dated as of September 1, 2021 (the “Master Toll Indenture”), in an initial principal amount of up to \$345,000,000 (the “TIFIA Series 2021 Toll Bond”). For additional discussion on the 2021 Toll TIFIA Loan Agreement and the TIFIA Series 2021 Toll Bond, see “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds -- Transfers of HRTF Revenues from General Fund to Support Toll Revenue Bonds.” The Series 2023A Notes are not supported by toll revenues or secured by a pledge of any toll revenues, as the Master Indenture does not permit toll revenues to be pledged to the payment of the Bonds. Although the funding plan for the HRBT Expansion Project anticipates that not less than \$345,000,000, of the funding for such project will be derived through toll-backed financing from the Express Lanes Network, such revenues are a source of project funding that is entirely distinct and separate from the HRTF Revenues and are not included under the Master Indenture waterfall. Conversely, certain limited transfers of HRTF Revenues, described below in “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds -- Transfers of HRTF Revenues from General Fund to Support Toll Revenue Bonds,” will support the toll-backed debt.

Outstanding HRTF Bonds

Table III
Outstanding HRTF Bonds*

Series	Delivery Date	Lien	Original Par	Outstanding Par ⁽¹⁾	Final Maturity
2018A Bonds ⁽²⁾	2/14/2018	Senior	\$ 500,000,000	\$ 135,925,000	2047
2020A Bonds	10/22/2020	Senior	614,615,000	614,615,000	2060
2021 Successor TIFIA Bond ⁽³⁾	9/21/2021	Subordinate	500,789,463	430,000,000 ⁽⁴⁾	2055
2021 HRTF TIFIA Bond	9/21/2021	Subordinate	817,990,000	817,990,000	2060
2022A Bonds	5/19/2022	Senior	407,875,000	407,875,000	2057
Total			\$2,841,269,463.00	\$2,406,405,000	

Source: HRTAC

* As of _____, 2023.

(1) Does not include accrued interest.

(2) On April 19, 2022, the Commission utilized available amounts in the General Fund to defease \$364,075,000 of the Series 2018A Bonds, including those Series 2018A Bonds maturing on July 1 in the years 2031 through 2038 and 2048 through 2057, with the 2048 maturity of the Series 2018A Bonds being partially defeased in the principal amount of \$23,980,000, leaving a non-defeased principal amount of \$63,125,000. The total outstanding principal amount of the Series 2018A Bonds after the defeasance is \$135,925,000.

(3) Originally issued December 10, 2019 and refinanced on September 21, 2021.

(4) While the maximum principal amount of the 2021 Successor TIFIA Bond available to be drawn is \$500,789,463, to date, the Commission has requisitioned only \$430,000,000.

As of the date of this Official Statement, as shown above, the aggregate outstanding principal amount of the Series 2018A Bonds is \$135,925,000, the aggregate outstanding principal amount of the Series 2020A Bonds is \$614,615,000, the aggregate outstanding principal amount of the 2021 Successor TIFIA Bond is \$430,000,000, the aggregate outstanding principal amount of the 2021 HRTF TIFIA Bond is \$817,990,000, and the aggregate outstanding principal amount of the Series 2022A Bonds is \$407,875,000.

Other than the outstanding Series 2018A Bonds, the Series 2020A Bonds, the 2021 Successor TIFIA Bond, the 2021 HRTF TIFIA Bond, the Series 2022A Bonds, and the 2023 HRTF TIFIA Bond, on the date of issuance of the Series 2023A Notes there will be no other obligations outstanding that are secured by or payable from HRTAC Revenues except the limited transfers of HRTF Revenues described below in “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Transfers of HRTF Revenues from General Fund.”

Additional Bonds

Authority to Issue Additional Bonds. Under the Master Indenture, the Commission may issue additional Bonds, including (i) Senior Bonds that are senior to the pledge of HRTAC Revenues with the Series 2023A Notes, (ii) Intermediate Lien Obligations that are on parity as to the pledge of HRTAC Revenues with the Series 2023A Notes and subordinate in payment and security to all Senior Bonds, and (iii) Subordinate Obligations that are subordinate in payment and security to all Intermediate Lien Obligations and all Senior Bonds. The Series 2023A Notes and all other Intermediate Lien Obligations will be equally and ratably secured under the Master Indenture without preference, priority or distinction on account of the time of their authentication, delivery or maturity. However, different Series of Intermediate Lien Obligations may bear interest at different rates, have different maturity dates and payment dates, may be subject to different mandatory or optional redemption or tender terms, and may have the benefit of credit facilities that do not support other Series of Intermediate Lien Obligations. See “THE MASTER INDENTURE—Issuance of Bonds—Parity of Bonds” in Appendix A.

Conditions to the Issuance of Senior Bonds. The Master Indenture requires as a condition to the issuance of any additional Senior Bonds for non-refunding purposes the filing with the Trustee of an Officer’s Certificate to the effect that, during any twelve consecutive months of the eighteen months preceding the issuance of the additional Senior Bonds, the HRTAC Revenues were not less than 2.00 times the maximum annual Principal and Interest Requirements (excluding any Excluded Interest Payments and Excluded Principal Payments to the extent permitted by the Master Indenture) during the current or any future Fiscal Year (defined in the Master Indenture as the twelve-month period commencing on July 1 of one year and ending on June 30 of the following year)) on all Senior Bonds Outstanding and the Series of Senior Bonds to be issued. See “THE MASTER INDENTURE—Issuance of Bonds—Conditions to the Issuance of Additional Series of Bonds” in Appendix A.

Conditions to the Issuance of Intermediate Lien Obligations. HRTAC is permitted to issue Intermediate Lien Obligations secured by the HRTAC Revenues, the payment and security of each which shall be subordinate to all Senior Bonds and to the Senior Debt Service Fund deposits required to be made under the Master Indenture. The 2023A Series Supplement provides that HRTAC must satisfy the following requirements in connection with the issuance of additional Intermediate Lien Obligations, other than Intermediate Lien Obligations to be incurred to rollover or refinance the 2023A Notes: (i) unless such additional Intermediate Lien Obligations shall not be secured by or participating in a debt service reserve fund, there shall be or have been established in connection with such additional Intermediate Lien Obligations, an Intermediate Lien Debt Service Reserve Fund as provided in the Master Indenture; (ii) HRTAC shall file with the Trustee an Officer’s Certificate to the effect that the Intermediate Lien Debt Service Reserve Fund Requirement, calculated immediately after the issuance of such additional Intermediate Lien Obligations, will be met effective upon the issuance of such additional Intermediate Lien Obligations; (iii) HRTAC shall file with the Trustee an Officer’s Certificate to the effect that during any twelve consecutive months of the eighteen months preceding the issuance of the Bonds to be issued, the HRTAC Revenues were not less than 1.75 times the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on any Senior Bonds and Intermediate Lien Obligations then Outstanding plus the Intermediate Lien Obligations to be issued; and (iv) HRTAC shall file with the Trustee an Officer’s Certificate demonstrating that, for each Fiscal Year while such Intermediate Lien Obligations will be Outstanding, HRTAC Revenues are projected by HRTAC to equal at least 1.35 times the annual aggregate Principal and Interest Requirements during the current or any future Fiscal Year on any Senior Bonds, Intermediate Lien Obligations, and Subordinate Lien Obligations then Outstanding plus the Series of Intermediate Lien Obligations to be issued. Such projections shall be in reasonable detail and may be made by HRTAC in consultation with the Virginia Department of Transportation and the Virginia Department of Taxation or other relevant state, regional or local agency.

Conditions to the Issuance of Subordinate Obligations. HRTAC is permitted to issue Subordinate Obligations secured by the HRTAC Revenues, the payment and security of each which shall be subordinate to all Senior Bonds and Intermediate Lien Obligations and to the Senior Debt Service Fund and Intermediate Debt Service Fund deposits required to be made under the Master Indenture.

The 2023 HRTF TIFIA Loan Agreement requires that HRTAC satisfy certain conditions with respect to the issuance of permitted indebtedness thereunder. See “2023 HRTF TIFIA LOAN AGREEMENT – Representations, Warranties and Covenants - Permitted Indebtedness” and “THE MASTER INDENTURE – Issuance of Bonds” in Appendix A.

Debt Service Reserve

No debt service reserve fund will be established or maintained for the Series 2023A Notes. It is expected that the payment of principal of and interest on the 2023 HRTF TIFIA Bond will be secured by a debt service reserve account funded in an amount equal to the requirement therefor established in the 2023 HRTF TIFIA Loan Agreement. See “2023 HRTF TIFIA LOAN AGREEMENT – TIFIA Debt Service Reserve.” Such debt service reserve account will be combined with the similar debt service reserve account that secures the 2021 Successor TIFIA Bond and the 2021 HRTF TIFIA Bond. No debt service reserve fund or account was established for the Series 2022A Bonds, the 2020A Bonds, or the Series 2018A Bonds.

The 2023A Series Supplement establishes a debt service reserve requirement in connection with the issuance of additional Intermediate Lien Obligations. Such requirement is an amount equal to the least of (a) ten percent (10%) of the principal amount of Intermediate Lien Obligations then Outstanding that are participating in the Intermediate Lien Debt Service Reserve Fund or in a separately created Intermediate Lien Debt Service Reserve Fund established in a Series Supplement (provided, however, that if such Intermediate Lien Obligations have original issue discount or premium that exceeds two percent (2%) of the stated redemption price at maturity plus any original issue premium attributable exclusively to underwriters’ compensation, the issue price shall be used in lieu of the stated principal amount for purposes of the 10% limitation), (b) the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on Intermediate Lien Obligations Outstanding plus the Series of Intermediate Lien Obligations to be issued, or (c) one hundred and twenty-five percent (125%) of the average annual Principal and Interest Requirements on all Intermediate Lien Obligations through their final maturity date.

As provided in the Master Indenture, HRTAC may provide that any Intermediate Lien Debt Service Reserve Fund be held collectively or with respect to all or multiple Series of Intermediate Lien Obligations, and determine that a Series of Intermediate Lien Obligations shall not participate in or be secured by an Intermediate Lien Debt Service Reserve Fund. The 2023A Notes are not participating in or secured by an Intermediate Lien Debt Service Reserve Fund.

Flow of Funds

The following summary of the Master Indenture’s flow of funds provisions does not purport to be comprehensive or definitive and is qualified by reference to the entire Master Indenture, as supplemented by the 2023A Series Supplement and other series supplements. The Master Indenture establishes a Revenue Fund to which HRTAC will deposit all HRTAC Revenues immediately upon receipt. The Revenue Fund is the source of the following monthly transfers that will benefit the holders of the Bonds:

FIRST: To each Senior Debt Service Fund, ratably, the amount, if any, required under the Related Series Supplement so that the balance therein on the next Payment Date shall equal the

amount of principal, if any, and interest due on the next Payment Date on the Related Series of Bonds; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Senior Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SECOND: To each Senior Debt Service Reserve Fund, ratably, the amount, if any, required so that the balance in each such Fund shall be equal to the respective Senior Debt Service Reserve Requirement;

THIRD: To each Intermediate Lien Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Intermediate Lien Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in an Intermediate Lien Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

FOURTH: To each Intermediate Lien Debt Service Reserve Fund, ratably, the amount, if any, required so that the balance in such Fund shall be equal to the respective Intermediate Lien Debt Service Reserve Requirement;

FIFTH: To each Subordinate Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Subordinate Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Subordinate Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SIXTH: To each Subordinate Debt Service Reserve Fund, ratably, the amount, if any, so that the balance in such Fund shall be equal to the respective Subordinate Debt Service Reserve Requirement;

SEVENTH: To each Rebate Fund the amounts necessary to provide for the payment of any Rebate Amounts with respect to the Related Series of Bonds as confirmed in an Officer's Certificate;

EIGHTH: To the Operating Account of the Operating Fund, the amount of funds necessary to pay Operating Expenses during such period in accordance with the Annual Budget (as defined in the Master Indenture; see Appendix A);

NINTH: To the Operating Reserve Account of the Operating Fund, the amount, if any, so that the balance in such Account shall be equal to the Operating Reserve Requirement;

TENTH: To fund any Hedging Termination Obligation in connection with a Qualified Hedge; and

ELEVENTH: To the General Fund, the balance remaining in the Revenue Fund.

Pursuant to the 2023A Series Supplement, each monthly transfer into the 2023A Bond Debt Service Fund under the Master Indenture shall be in an amount not less than the sum of (i) except to the extent interest is paid from the Capitalized Interest Subaccount, one-sixth of the interest due on the Series 2023A Notes on the next ensuing Interest Payment Date, plus (ii) one-twelfth of the principal due on the Series 2023A Notes at maturity or upon mandatory redemption on the next ensuing Principal Payment Date, less

(iii) accrued interest and any other interest earnings currently on deposit therein. See “THE 2023A SERIES SUPPLEMENT—Bond Debt Service Fund” in Appendix A.

A schematic diagram of the Flow of Funds is presented on page [28].

Application of Amounts in the General Fund. HRTAC shall apply the balance in the General Fund, including interest earnings, as follows: (i) first to cure any deficiency in the amount required to be on deposit in any Senior Debt Service Fund, any Senior Debt Service Reserve Fund, any Intermediate Lien Debt Service Fund, any Intermediate Lien Debt Service Reserve Fund, any Subordinate Debt Service Fund, any Subordinate Debt Service Reserve Fund, any Rebate Fund, or the Operating Reserve Account, in that order; (ii) to provide certain transfers of HRTF Revenues from the General Fund for limited support of the TIFIA Series 2021 Toll Bond; (iii) to pay any credit provider in respect of a bond credit facility or DSRF credit facility any excess interest, fees, fines or other penalties owed as a result of a default on any applicable credit or DSRF facility; (iv) to the payment of expenditures for capital improvements with respect to any project; (v) [for deposit into the TIFIA Revenue Sharing Account, the amount, if any, as may be required under the 2023A Series Supplement, the Series Supplement relating to the 2021 HRTF TIFIA Bond, the Series Supplement relating to the 2021 Successor TIFIA Bond and the applicable provisions of any Series Supplement in an amount equal to “excess revenues” for such month]; and (vi) to the payment of any other lawful purpose approved by resolution of the Commission. See “THE MASTER INDENTURE—Revenue Fund and Flow of Funds” in Appendix A. The Commission generally funds PayGo project costs from the General Fund, is funding the debt service reserve account established for the 2021 Successor TIFIA Bond and the 2021 HRTF TIFIA Bond from available amounts in the General Fund, and expects to fund the debt service reserve account established for the 2023 HRTF TIFIA Bond from available amounts in the General Fund, as well as to make the HRTF Transfers as described in the following paragraphs.

Transfers of HRTF Revenues from the General Fund to Support Toll Revenue Bonds. As stated above, the Master Indenture provides that HRTAC may use amounts in the General Fund for any lawful purpose approved by resolution of HRTAC, including expenditures for capital improvements. In establishing the financial framework for the Express Lanes Network, the Commission entered into the Master Toll Indenture and a First Supplemental Indenture of Trust, dated as of September 1, 2021 (the “First Supplemental Toll Indenture” and together with the Master Toll Indenture, the “Toll Indenture”). The Master Toll Indenture provides for the collection, custody, application and use of toll revenues of the Express Lanes Network (the “Express Lanes Toll Revenues”) to finance the Express Lanes Network and facilities related thereto, including a portion of the HRBT Expansion Project. The Commission has entered into the 2021 Toll TIFIA Loan Agreement with the TIFIA Lender, pursuant to which the TIFIA Lender has agreed to extend a loan secured under the Master Toll Indenture to the Commission to finance a portion of the costs of the HRBT Expansion Project. To evidence the obligation of the Commission to repay the loan under the 2021 Toll TIFIA Loan Agreement, the Commission issued the TIFIA Series 2021 Toll Bond under the Master Toll Indenture in an initial principal amount of up to \$345,000,000.

The Series Supplement relating to the 2021 HRTF TIFIA Bond provides that the Commission will make certain transfers of HRTF Revenues from the General Fund for limited support of the TIFIA Series 2021 Toll Bond. These include the following (together, the “HRTF Transfers”):

- An amount equal to the TIFIA Loan Reserve Account Reserve Requirement (approximately \$19.2 million based on current estimates) for transfer and deposit to the debt service reserve account established under the First Supplemental Toll Indenture, to occur by no later than the 2021 TIFIA Toll Debt Service Payment Commencement Date, which is the earlier of the (i) 3rd anniversary substantial completion date of the HRBT Expansion Project, or (ii) if such a date is not an interest payment date, the interest payment

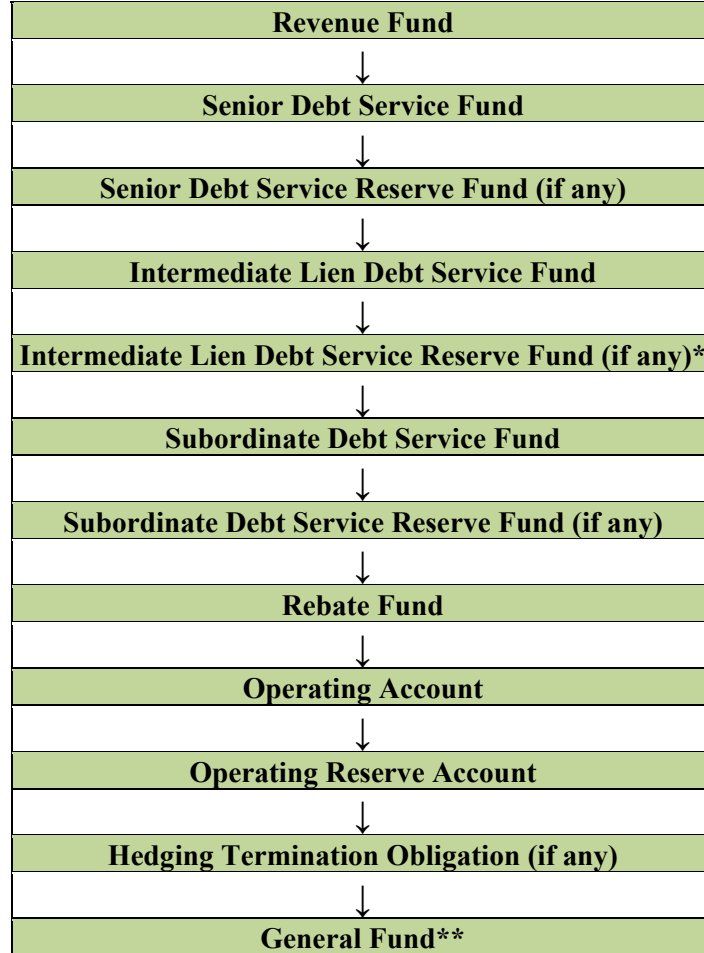
date immediately preceding the 3rd anniversary of the substantial completion date of the HRBT Expansion Project (collectively, the “TIFIA Toll Debt Service Commencement Date”);

- \$10,000,000, as the initial deposit to a revenue stabilization fund, which fund is to provide replenishments to the debt service fund and the debt service reserve fund for the TIFIA Series 2021 Toll Bond, such initial deposit to occur at the TIFIA Toll Debt Service Commencement Date; and commencing thereafter, and continuing in each year through the maturity of the TIFIA Series 2021 Toll Bond, to the extent that amounts on deposit in such fund are less than \$10,000,000, an amount sufficient to restore the balance therein to \$10,000,000, subject to an annual transfer cap of \$10,000,000 during any Fiscal Year;
- For deposit to the major maintenance and renewal fund established under the Master Toll Indenture, the amount of \$5,000,000, to occur no later than the later of the (i) substantial completion date of the HRBT Expansion Project, or (ii) the date on which the Commission makes the first draw under the TIFIA Series 2021 Toll Bond; and commencing thereafter, and continuing in each year through the maturity of the TIFIA Series 2021 Toll Bond, to the extent that amounts on deposit in such fund are less than the amount required to be maintained in the major maintenance and renewal fund, based on the life cycle costs of the Express Lanes Network, an amount sufficient to restore the amount on deposit in the such fund to the required amount, provided, however, that the aggregate amount of all HRTF Transfers made while the TIFIA Series 2021 Toll Bond is outstanding for deposit to such major maintenance and renewal fund shall not exceed a cumulative cap equal to the total of expected major maintenance and renewal fund expenditures to the final maturity of any toll obligations issued under the Master Toll Indenture.

The Master Toll Indenture specifies that HRTF Transfers may only be used to pay for costs legally permitted for the use of HRTF funds. The Commission agrees to manage the use of HRTF Revenues in the General Fund so as to provide for the availability of sufficient amounts in the General Fund to make the foregoing HRTF Transfers as and when required, subject to the availability of HRTF Revenues and to its commitments to provide funding for the HRBT Expansion Project.

[Remainder of page intentionally left blank;
schematic diagram of Flow of Funds follows on next page]

FLOW OF FUNDS DIAGRAM



* No Debt Service Reserve Fund will be established or maintained for the Series 2023A Notes.

** See “SECURITY AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds -- Application of Amounts in the General Fund and Transfers of HRTF Revenues from the General Fund to Support Toll Revenue Bonds” herein for a description of the use of funds in the General Fund.

2023 HRTF TIFIA LOAN AGREEMENT

The delivery and effective date of the 2023 HRTF TIFIA Loan Agreement is expected to occur by _____, 2023. While HRTAC expects that the 2023 HRTF TIFIA Loan Agreement will be executed and delivered, HRTAC and the TIFIA Lender are currently negotiating the final terms of such agreement and there are no assurances that HRTAC will be able to execute and deliver the 2023 HRTF TIFIA Loan Agreement. There may also be terms of the final 2023 HRTF TIFIA Loan Agreement that vary from the description that follows in this Official Statement. Any such changes are not expected to*

* Preliminary, subject to change.

be material, but HRTAC makes no assurance as to the final form of the 2023 HRTF TIFIA Loan Agreement. After execution and delivery, HRTAC will promptly electronically file the final form of the 2023 HRTF TIFIA Loan Agreement with the Municipal Securities Rulemaking Board (the “MSRB”) through its Electronic Municipal Market Access System (“EMMA”).

As described below, it is expected that the 2023 HRTF TIFIA Loan Agreement will have certain conditions precedent to the funding of any disbursement of the 2023 HRTF TIFIA Loan. While HRTAC anticipates it will be able to meet such conditions at the time of any disbursement, there are no assurances that HRTAC will be able to do so.

Pursuant to the 2023 HRTF TIFIA Loan Agreement, the TIFIA Lender is expected to commit to extend the 2023 HRTF TIFIA Loan to HRTAC in an aggregate principal amount not to exceed \$[142,720,000].* HRTAC expects to make a single requisition under the 2023 HRTF TIFIA Loan on or before July 1, 20__, within one year after substantial completion of the HRELN Project (for the purposes of this section “2023 HRTF TIFIA LOAN AGREEMENT,” references to the “HRELN Project” and similar terms shall refer to Segment 4C of the HRELN Project, as more fully defined as the “Project” in the 2023 HRTF TIFIA Loan Agreement), and apply the amount requisitioned under the 2023 HRTF TIFIA Loan Agreement to reimburse itself for eligible project costs, including for the HRELN Project. Such reimbursement will include an amount to pay principal on the Series 2023A Notes at their maturity. The proceeds of the 2023 HRTF TIFIA Loan may be disbursed to HRTAC for the payment, reimbursement or refinancing of certain costs of the projects that are eligible to be financed with proceeds of the 2023 HRTF TIFIA Loan pursuant to federal law; provided, that total disbursements under the 2023 HRTF TIFIA Loan cannot exceed 33% of all such eligible costs of the HRELN financed costs.

Upon closing of the 2023 HRTF TIFIA Loan Agreement, HRTAC will issue the 2023 HRTF TIFIA Bond to the TIFIA Lender to evidence its repayment obligations under the 2023 HRTF TIFIA Loan. The interest rate on the 2023 HRTF TIFIA Loan and hence of the 2023 HRTF TIFIA Bond will be a fixed interest rate computed on the outstanding principal balance of the 2023 HRTF TIFIA Loan (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed, except that, upon the occurrence and during the continuance of a payment default, the interest rate with respect to any overdue principal amount shall bear interest at the foregoing rate plus 2.00% *per annum*.

The 2023 HRTF TIFIA Bond will be issued as a Subordinate Lien Obligation under the Master Indenture. Certain provisions of the 2023 HRTF TIFIA Loan Agreement relating to conditions precedent to requisitioning moneys and events of default are summarized below, such requirements being substantially similar to those with respect to the Existing TIFIA Loans under the Existing HRTF TIFIA Loan Agreements. The Existing HRTF TIFIA Loan Agreements, along with the 2021 Toll TIFIA Loan Agreement, have been filed with the MSRB through its EMMA system and may be accessed over the internet at <https://www.emma.msrb.org>.

Disbursement Conditions

Closing and delivery of, as well as disbursements under, the 2023 HRTF TIFIA Loan are subject to numerous conditions precedent. In addition to the delivery of customary certificates as to representations and warranties, no defaults and other corporate matters, the following conditions, among others, also apply to the TIFIA Lender’s obligation to fund a requisition request:

* Preliminary, subject to change.

- execution and delivery of the 2023 Direct Agreement (as defined below), along with the various deliverables required thereunder;
- delivery to the TIFIA Lender of updated Financial Plans and, to the extent not previously delivered, copies of the applicable project contracts and amendments and modifications, if any, thereto;
- all governmental approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the HRELN Project are in full force and effect;
- all applicable insurance policies shall be in full force and effect and all permits and governmental approvals necessary to complete construction of the HRELN Project shall have been obtained;
- no event of default under the 2023 HRTF TIFIA Loan Agreement, the Master Indenture or other material contracts, or event which with the giving of notice or the passage of time or both under such documents would result in an event of default shall have occurred and be continuing; and
- since the date HRTAC submitted the application for the 2023 HRTF TIFIA Loan to the TIFIA Lender there shall not have occurred a Material Adverse Effect (as defined in the 2023 HRTF TIFIA Loan Agreement).

The TIFIA Lender shall be entitled to withhold approval of the disbursement of 2023 HRTF TIFIA Loan's proceeds if:

- an event of default or an event that, with the giving of notice of the passage of time or both, would constitute an event of default, under the 2023 HRTF TIFIA Loan Agreement shall have occurred and be continuing; or
- HRTAC:
 - knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated by the 2023 HRTF TIFIA Loan Agreement; or
 - fails to ensure VDOT's construction of the HRELN Project in a manner consistent with the governmental and other approvals therefor or in accordance with the highest standards of VDOT's industry, where such failure prevents or materially impairs the project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by VDOT with applicable federal or local law pertaining to the HRELN Project, or with the terms and conditions of the 2023 HRTF TIFIA Loan Agreement; or
 - fails to observe or comply with any applicable federal or local law, or any term or condition of the 2023 HRTF TIFIA Loan Agreement; or
 - fails to satisfy disbursement conditions or conditions precedent to all disbursements set out in the 2023 HRTF TIFIA Loan Agreement; or

- fails to deliver documentation satisfactory to the TIFIA Lender evidencing eligible project costs claimed for disbursement at the times and in the manner specified by the 2023 HRTF TIFIA Loan Agreement; provided, that in such case the TIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing eligible project costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

See additional discussion of the conditions to closing and delivery of, as well as disbursements under, the 2023 HRTF TIFIA Loan below under “INVESTMENT CONSIDERATIONS—No Assurance of Funds under 2023 HRTF TIFIA Loan Agreement.”

Repayment Terms

No payment of the principal of or interest on the 2023 HRTF TIFIA Loan is required to be made during the capitalized interest period, which will be the period from the drawdown of the 2023 HRTF TIFIA Loan to the date that HRTAC commences repayment of the 2023 HRTF TIFIA Loan as described below (“TIFIA Capitalized Interest Period”). As of each June 30 and December 31 during the TIFIA Capitalized Interest Period and on the last day of the TIFIA Capitalized Interest Period, interest accrued in the six-month period ending on the subject date (or such lesser period in connection with the end of the TIFIA Capitalized Interest Period) on the 2023 HRTF TIFIA Loan shall be capitalized and added to the outstanding balance. Within 30 days after the end of the TIFIA Capitalized Interest Period, the TIFIA Lender shall give written notice to HRTAC stating the outstanding 2023 HRTF TIFIA Loan balance as of the close of business on the last day of the TIFIA Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Commission under the 2023 HRTF TIFIA Loan Agreement or under any of the other 2023 HRTF TIFIA Loan documents.

Under the 2023 HRTF TIFIA Loan Agreement, on the earlier of (a) [January 1, 2028], and (b) the third semi-annual payment date immediately succeeding the substantial completion date of the HRELN Project financed with 2023 HRTF TIFIA Loan proceeds, HRTAC shall commence paying TIFIA Debt Service in the amount of interest on and principal of the 2023 HRTF TIFIA Loan equal to the amount set forth in the 2023 HRTF TIFIA Loan Agreement, as the same may be revised as provided in the 2023 HRTF TIFIA Loan Agreement, which payments shall be made in accordance with the terms of the 2023 HRTF TIFIA Loan Agreement.

A projected amortization of the 2023 HRTF TIFIA Bond is set forth under Table IX – Projected HRTF Bonds’ Debt Service and Debt Service Coverage Ratio in “PROJECTED OPERATING RESULTS AND DEBT SERVICE COVERAGE RATIO.”

Prepayment of the 2023 HRTF TIFIA Loan

HRTAC will be required to mandatorily prepay all or a portion of the 2023 HRTF TIFIA Loan without penalty or premium following the occurrence of a Revenue Sharing Trigger Event (defined below), on each semi-annual payment date under the 2023 HRTF TIFIA Loan Agreement occurring while the Revenue Sharing Trigger Event remains in effect, from “Excess Revenues” (as described below) on deposit in the Revenue Sharing Account. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds” above. Prepayment of the 2023 HRTF TIFIA Loan will be made, on a pro rata basis with any other TIFIA loans secured by HRTAC Revenues then outstanding, in each case, based on the then outstanding amount of such TIFIA loans.

A “Revenue Sharing Trigger Event” is any date on which the 2023 HRTF TIFIA Loan Agreement is outstanding and (a) HRTAC or VDOT, on behalf of HRTAC, is not actively engaged in the development of capital project programs in the Hampton Roads Transportation Planning Organization’s most recently adopted long-range transportation plan, and (b) for so long as the 2021 TIFIA Toll Obligation remains Outstanding, the unencumbered amount on deposit in the General Fund (after taking into account any HRTF Transfers required to be made as of such date or within the next twelve (12 months)) is greater than \$50,000,000 after making the deposits or transfers as described in paragraphs FIRST through TENTH under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds” herein and clauses (i) through (iv) under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds – Application of Amounts in the General Fund” herein (in that order). See “INVESTMENT CONSIDERATIONS – Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues – TIFIA Revenue Sharing Trigger Event.” Under the Indenture and its flow of funds provisions, “Excess Revenues” are, following the occurrence of a Revenue Sharing Trigger Event and until such time as the Revenue Sharing Trigger Event ends, an amount in each month equal to 50% of the HRTAC Revenues remaining each month after the transfers described in paragraphs FIRST through TENTH under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds” herein and clauses (i) through (iv) under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds – Application of Amounts in the General Fund” herein (in that order) have occurred. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds – Application of Amounts in the General Fund” above.

Upon any voluntary prepayment of any Bonds, other than any voluntary prepayment of any such Bonds made with the proceeds of Additional Bonds issued on the same lien level, in accordance with the requirements of the 2023 HRTF TIFIA Loan Agreement, the 2023 HRTF TIFIA Bond shall be repaid pro rata with such voluntary prepayment of such other Bonds.

In addition, HRTAC will have the right to prepay the 2023 HRTF TIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid will be determined by HRTAC; provided, however, that such prepayments have to be in a minimum principal amount of \$1,000,000), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the 2023 HRTF TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the 2023 HRTF TIFIA Loan has to be made on such date and in such principal amount as HRTAC specifies in a written notice delivered to the TIFIA Lender. In the case of any prepayment, such written notice has to be delivered to the TIFIA Lender not less than 10 days or more than 30 days prior to the date set for prepayment.

If such notice has been given, the principal amount of the 2023 HRTF TIFIA Loan stated in such notice or the whole thereof, as the case may be, is due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on the principal amount then being prepaid.

TIFIA Debt Service Reserve

The 2023 HRTF TIFIA Bond will be secured by a pooled Subordinate Debt Service Reserve Fund. On or prior to the later of the substantial completion date of the projects financed by the 2023 HRTF TIFIA Bond or the date of the final disbursement under the 2023 HRTF TIFIA Loan Agreement, HRTAC shall cause the deposit of available HRTAC Revenues or HRTF Transfers in such Subordinate Debt Service Reserve Fund in an amount sufficient to cause the balance therein to equal the combined “TIFIA Subordinate Debt Service Reserve Required Balance.” Such amount is the lesser of (x) ten

percent (10%) of the maximum stated principal of the 2021 Successor TIFIA Bond, the 2021 HRTF TIFIA Bond, and the 2023 HRTF TIFIA Bond, (y) one hundred percent (100%) of the combined TIFIA maximum annual debt service, or (z) one hundred and twenty-five percent (125%) of the average annual combined TIFIA debt service. If there are TIFIA loans in addition to the 2023 HRTF TIFIA Loan that are secured by HRTAC Revenues on a Subordinate Lien basis outstanding at any time, then such amounts will be calculated using the summation of all TIFIA loans as if there were one TIFIA loan.

Representations, Warranties and Covenants

Pursuant to the terms of the 2023 HRTF TIFIA Loan Agreement, HRTAC makes certain customary representations, warranties and covenants as of (i) the date of execution and delivery of the 2023 HRTF TIFIA Loan Agreement, and (ii) each date on which a disbursement of the 2023 HRTF TIFIA Loan is requested or made, including, but not limited to:

Non-Contravention. Pursuant to the 2023 HRTF TIFIA Loan Agreement, HRTAC represents and warrants that the execution and delivery by HRTAC of the 2023 HRTF TIFIA Loan Agreement and other related documents to which HRTAC is a party, and compliance with the terms thereof will not, in any material respect, conflict with or constitute a violation or breach of or default of any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument. VDOT has oversight responsibility for ensuring compliance with all applicable provisions of federal transportation law for project oversight activities.

Permitted Indebtedness. Under the 2023 HRTF TIFIA Loan Agreement, HRTAC may issue certain permitted debt and additional obligations (“Additional Obligations”), as follows, provided, however, that no event of default under the Indenture or the 2023 HRTF TIFIA Loan Agreement has occurred and is continuing. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Additional Bonds” and “THE MASTER INDENTURE—Issuance of Bonds—Intermediate Lien Obligations” and “—Subordinate Obligations” in Appendix A:

- (1) if the proceeds of the Additional Obligations will be used to refinance Senior Bonds, Intermediate Lien Obligations, or Subordinate Obligations and are issued on the same lien level as the proposed refunded obligations, (i) such Additional Obligations must receive a rating from a nationally recognized rating agency of equivalent to the lesser of the rating on the obligations being refinanced with the proceeds of the Additional Obligations as of the applicable effective date or the most recent rating of such obligations provided under the 2023 HRTF TIFIA Loan Agreement, (ii) the net proceeds thereof (after deducting any amounts required to be deposited to satisfy the respective debt service reserve requirement or required to pay costs of issuance) must not exceed the principal amount of the respective obligations outstanding and being refinanced, (iii) the respective lien level debt service, after the incurrence of such Additional Obligations, in each year of the remaining term of the 2023 HRTF TIFIA Loan, must be projected to be less than the respective lien level debt service projected for each such year in the 2023 HRTF TIFIA Loan Agreement’s base case projections, and (iv) the stated maturity of such Additional Obligations shall not exceed the stated maturity for the obligations being refinanced with the proceeds of the Additional Obligations; and
- (2) if the proceeds thereof will be used for any reason not described in the foregoing clause (1) above, the issuance of the Additional Obligations shall not result in a downgrade of any Subordinate Lien Obligations issued to the TIFIA Lender and HRTAC shall provide the TIFIA Lender a certificate in a form reasonably acceptable to the TIFIA Lender (including the calculations

supporting such certificate), certifying that (i) the activity or project to which such Additional Obligation proceeds will be applied could not reasonably be expected to result in a material adverse effect under the 2023 HRTF TIFIA Loan Agreement; (ii) HRTAC has satisfied the requirements for issuing the Additional Obligations in accordance with the applicable provisions of the Indenture or Series Supplement existing as of the applicable effective date, including, specifically, that during any twelve consecutive months of the eighteen months preceding the issuance of the Additional Obligations, (A) the HRTAC Revenues were not less than (1) 2.00 times the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on the Senior Bonds then outstanding plus, if such Additional Obligations are Senior Bonds, such Additional Obligations, and (2) 1.50 times the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on the Senior Bonds and Intermediate Lien Obligations then outstanding plus, if such Additional Obligations are Intermediate Lien Obligations, such Additional Obligations, and (B) the total debt service coverage ratio, including debt service for the Additional Obligations to be issued, for each calculation period under the 2023 HRTF TIFIA Loan Agreement is projected to be not less than 1.35 to 1.00 while any Subordinate Obligations issued to the TIFIA Lender remain outstanding.

Additional Covenants. The following briefly summarizes additional covenants of HRTAC (which covenants may be qualified by materiality and other exceptions).

- (1) Maintenance by HRTAC of legal structure;
- (2) No indebtedness, other than Permitted Indebtedness;
- (3) Securing and maintaining the liens on HRTAC Revenues;
- (4) No swap or hedging transactions other than as expressly permitted;
- (5) Ensure that VDOT has complied under all principal project contracts or the standard project agreements, as applicable, with respect to the HRELN Project; and
- (6) Ensure maintenance by VDOT of all required insurance.

Events of Default Under the 2023 HRTF TIFIA Loan Agreement

The following events are expected to constitute events of default under the 2023 HRTF TIFIA Loan Agreement:

- (1) Failure to pay any of the principal amount of or interest due and payable on the 2023 HRTF TIFIA Loan or to make any required mandatory prepayment thereunder;
- (2) A failure by HRTAC or VDOT to observe or perform any covenant, agreement or obligation of HRTAC or VDOT, respectively, under the 2023 HRTF TIFIA Loan Agreement or any other 2023 HRTF TIFIA Loan Document (which the 2023 HRTF TIFIA Loan Agreement defines as including the 2023 HRTF TIFIA Bond, the Master Indenture, including all supplements thereto, the 2023 Direct Agreement, as well as loan documents related to the 2021 Successor TIFIA Bond and the 2021 HRTF TIFIA Bond) to which it is a party (other than in the case of any payment default or any Development Default, as defined below), and such failure shall not be cured within 30 days after HRTAC's or VDOT's knowledge thereof or receipt by HRTAC from the TIFIA Lender of written notice thereof provided, however, that if such failure is capable of cure but cannot

reasonably be cured within such 30-day period, then no event of default shall be deemed to have occurred or be continuing under this provision if and so long as within such 30-day period HRTAC or VDOT shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, provided such failure is cured within 180 days of the first occurrence of such failure;

- (3) A development default shall occur, which means (a) VDOT fails to diligently prosecute the work related to the HRELN Project or (b) VDOT fails to complete the HRELN Project by the third (3rd) anniversary of the projected substantial completion date of [November 15, 2026], unless otherwise agreed by the TIFIA Lender in writing (a “Development Default”);
- (4) Any of the representations, warranties or certifications of HRTAC or VDOT made in or delivered pursuant to the under the 2023 HRTF TIFIA Loan Agreement or any other 2023 HRTF TIFIA Loan Document to which it is a party (or in any certificates delivered by HRTAC in connection with such documents) shall prove to have been false or misleading in any material respect when made, subject to certain conditions;
- (5) Any acceleration shall occur of the maturity of any Senior Bonds, Intermediate Lien Obligations, or Subordinate Obligations, or any such Senior Bonds, Intermediate Lien Obligations, or Subordinate Obligations shall not be paid in full upon the final maturity thereof;
- (6) One or more judgments (A) for the payment of money in an aggregate amount in excess of \$5,000,000 (inflated annually by CPI) that are payable from HRTAC Revenues and are not or have not been otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage), or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against HRTAC, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of HRTAC to enforce any such judgment;
- (7) HRTAC shall fail to maintain its existence as a body politic and a political subdivision created and existing under the laws of the Commonwealth or the HRTAC Act shall be repealed or amended in a manner that could reasonably be expected to result in failure of HRTAC to maintain its existence, unless at or prior to the time HRTAC ceases to exist in such form or the repeal or amendment of the HRTAC Act becomes effective a successor public agency or governing body has been created by the Commonwealth pursuant to a valid and unchallenged Commonwealth law and has succeeded to the assets of HRTAC and has assumed all of the obligations of HRTAC under the 2023 HRTF TIFIA Loan Documents, the Indenture or the Toll Indenture, including the payment of all Secured Obligations;
- (8) A bankruptcy related event shall occur with respect to HRTAC, VDOT, or certain principal project parties;
- (9) HRTAC or VDOT shall abandon the HRELN Project;

- (10) (A) Any 2023 HRTF TIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or HRTAC contests in any manner the validity or enforceability of any 2023 HRTF TIFIA Loan Document to which it is a party or denies it has any further liability under any 2023 HRTF TIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any 2023 HRTF TIFIA Loan Document to which it is a party; or (B) any Indenture Document ceases (other than as expressly permitted thereunder) to be effective to grant a valid and binding security interest on any material portion of the trust estate other than as a result of actions or a failure to act by, and within the control of, the Trustee or any Secured Party, and with the priority purported to be created thereby;
- (11) Operation of a material portion of the HRELN Project shall cease for a continuous period of not less than one hundred eighty (180) days, subject to certain exceptions; and
- (12) Failure to increase the amount required in the major maintenance and renewal fund as estimated by a consulting engineer within 30 days or receipt of such estimate from such consulting engineer.

Remedies

Upon the occurrence of a Development Default under the 2023 HRTF TIFIA Loan Agreement, all obligations of the TIFIA Lender thereunder with respect to the disbursement of any undisbursed amounts of the 2023 HRTF TIFIA Loan may immediately be deemed suspended, subject to cure by HRTAC.

Upon the occurrence of any bankruptcy related event of default with respect to HRTAC, all obligations of the TIFIA Lender thereunder with respect to the disbursement of any undisbursed amounts of the 2023 HRTF TIFIA Loan shall automatically be deemed terminated, and, to the extent permitted under the Indenture, the outstanding 2023 HRTF TIFIA Loan's balances, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under the 2023 HRTF TIFIA Bond or the other 2023 HRTF TIFIA Loan Documents, shall automatically become immediately due and payable.

Upon the occurrence of any other event of default under the 2023 HRTF TIFIA Loan Agreement, the TIFIA Lender, by written notice to HRTAC, may (A) suspend or terminate all of its obligations thereunder with respect to the disbursement of any undisbursed amounts of the 2023 HRTF TIFIA Loan, and (B) to the extent permitted under the Indenture, declare the unpaid principal amount of the 2023 HRTF TIFIA Bond to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under the 2023 HRTF TIFIA Loan Agreement, the 2023 HRTF TIFIA Bond or the other 2023 HRTF TIFIA Loan Documents.

Whenever any Event of Default thereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid thereunder or under the 2023 HRTF TIFIA Bond or the other 2023 HRTF TIFIA Loan Documents, and may prosecute any such judgment or final decree against HRTAC and collect in the manner provided by law out of the trust estate the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code (to the extent applicable), and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by HRTAC under the 2023 HRTF TIFIA Loan Agreement, the 2023 HRTF TIFIA Bond or the other 2023

HRTF TIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of HRTAC under the 2023 HRTF TIFIA Loan Agreement, the 2023 HRTF TIFIA Bond or the other 2023 HRTF TIFIA Loan Documents.

Whenever any Event of Default under the 2023 HRTF TIFIA Loan Agreement shall have occurred and be continuing, the TIFIA Lender may suspend or debar HRTAC from further participation in any federal government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

No action taken pursuant to the 2023 HRTF TIFIA Loan Agreement shall relieve HRTAC from its obligations pursuant to the 2023 HRTF TIFIA Loan Agreement, the 2023 HRTF TIFIA Bond or the other 2023 HRTF TIFIA Loan Documents, all of which shall survive any such action.

2023 Direct Agreement

The 2023 HRTF TIFIA Loan Agreement requires, as a condition of closing, that the TIFIA Lender, HRTAC, and VDOT enter into a Direct Agreement (the “2023 Direct Agreement”), which is expected to be dated as of the date of the 2023 HRTF TIFIA Loan Agreement.

While HRTAC expects that the 2023 Direct Agreement will be executed and delivered, HRTAC, VDOT, and the TIFIA Lender are currently negotiating the final terms of such agreement and there are no assurances that HRTAC or VDOT will be able to execute and deliver the 2023 Direct Agreement. There may also be terms of the 2023 Direct Agreement that vary from the description that follows in this Official Statement. Any such changes are not expected to be material, but HRTAC makes no assurance as to the final form of the 2023 Direct Agreement. After execution and delivery, HRTAC will promptly electronically file the final form of the 2023 HRTF TIFIA Loan Agreement with MSRB through EMMA, which includes the final form of the 2023 Direct Agreement as an exhibit thereto.

[The 2023 Direct Agreement generally provides for certain assurances and agreements among the parties thereto related to Segment 4C of the HRELN Project, primarily with respect to VDOT’s management of the HRELN Project. VDOT is required to satisfy various conditions precedent prior to the 2023 Direct Agreement’s effectiveness, including the delivery of a legal opinion, customary certificates, and organizational documents, among other conditions.

Under the 2023 Direct Agreement, VDOT is required to make various covenants related to the HRELN Project, including, among other requirements, providing the TIFIA Lender written notice of VDOT’s intent to enter into any relevant project-related contracts and seeking the TIFIA Lender’s approval of such contracts if required under the 2023 HRTF TIFIA Loan Agreement; agreeing to prosecute the work relating to the HRELN Project and complete the HRELN Project in accordance with the construction schedule; and providing notice to the TIFIA Lender and HRTAC within five (5) business days after learning of various occurrences, including but not limited to any proposed amendments to relevant project-related contracts, any (1) change to the forecasted total project costs in excess of five percent (5%) of total forecasted total project costs, together (in the case of increased costs) with a written description of the committed funding sources available to VDOT or HRTAC to pay for such increased total project costs; or (2) material change to the construction schedule, together with a proposed revised construction schedule. VDOT also is required to obtain the prior written consent of the TIFIA Lender prior to entering into any amendment of a project-related contract that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination), among other prohibitions.

The 2023 Direct Agreement also provides that the TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development (including environmental compliance, design, right-of-way acquisition) and construction of the HRELN Project, with the FHWA Division Office having oversight responsibility for the HRELN Project, including ensuring compliance in all material respects with all applicable provisions of federal law. The 2023 Direct Agreement allows the TIFIA Lender to seek specific performance to enforce its provisions, in addition to other remedies available under the 2023 Direct Agreement and applicable law.]

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION

The Commission was created by the Virginia General Assembly in 2014 to be a body politic and a political subdivision of the Commonwealth with responsibility for approving the funding of projects to be financed with the HRTF Revenues. Such revenues are derived from the additional taxes levied pursuant to Chapter 766 within Planning District 23. The Member Localities comprising Planning District 23 currently include the Counties of Isle of Wight, James City, Southampton, and York, and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. The Commission is a separate legal entity from these Member Localities within Planning District 23. Cities and counties in the Commonwealth are independent entities; therefore, the Member Localities do not overlap. Pursuant to Chapter 545, the Commission must use the HRTF Revenues for purposes of (i) funding new construction projects on new or existing highways, bridges, and tunnels in the Member Localities, giving priority to projects expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing within the Member Localities, and (ii) paying the Commission's administrative and operating expenses as provided in its annual budget (which under the HRTAC Act shall be limited solely to administrative expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service). See "HAMPTON ROADS TRANSPORTATION FUND—General" herein, and "Table 5: HRTAC Operating Budget" in [Appendix E](#). HRTAC collaborates with HRTPO to set transportation funding priorities on the basis of a regional consensus developed by HRTPO, but HRTAC serves primarily as a financing vehicle for regional transportation projects rather than as a planning board. To date, all of HRTAC's projects have been part of VDOT's statewide transportation system and HRTAC has entered into Standard Project Agreements and the PAFA with VDOT whereby HRTAC provides funds to such projects. See "DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS."

Hampton Roads Region

With the exception of Southampton County and the City of Franklin, all of the Member Localities are located in the Hampton Roads MSA. For a description of certain demographic, economic and financial information regarding Planning District 23 and Hampton Roads, see [Appendix D](#).

Commission Members

Pursuant to the HRTAC Act, HRTAC has 23 members as follows: the chief elected official of the ten (10) cities embraced by the Commission, which in each such city is a mayor; 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; three (3) members of the House of Delegates who reside in different counties or cities embraced by the Commission and who are appointed by the Speaker of the House; and two (2) members of the Senate who reside in different counties or cities embraced by the Commission, who are appointed by the Senate Committee on Rules. In addition, the Director of the Virginia

Department of Rail and Public Transportation (“VDRPT”), or his/her designee; the Commissioner of Highways, or his/her designee; the Executive Director of the Virginia Port Authority, or his/her designee; and a member of the Commonwealth Transportation Board who resides in a locality embraced by the Commission and who is appointed by the Governor, serve as non-voting members of HRTAC.

The current membership of HRTAC is listed below, together with the related Member Locality or appointing official or body:

<u>Voting Members</u>	<u>Title</u>	<u>Source of Appointment</u>
Richard W. West	HRTAC Chair	City of Chesapeake
Douglas G. Pons	HRTAC Vice Chair	City of Williamsburg
Kenneth C. Alexander	Member	City of Norfolk
Amanda Batten	Member	Virginia House of Delegates
Christopher D. Cornwell, Sr.	Member	Southampton County
Robert “Bobby” Cutchins	Member	City of Franklin
Michael D. Duman	Member	City of Suffolk
Robert M. Dyer	Member	City of Virginia Beach
Shannon E. Glover	Member	City of Portsmouth
Gordon C. Helsel	Member	City of Poquoson
Michael J. Hipple	Member	James City County
Phillip Jones	Member	City of Newport News
Barry D. Knight	Member	Virginia House of Delegates
L. Louise Lucas	Member	Virginia Senate
Montgomery “Monty” Mason	Member	Virginia Senate
William M. McCarty	Member	Isle of Wight County
Thomas G. Shepperd	Member	York County
Anne Ferrell Tata	Member	Virginia House of Delegates
Donnie R. Tuck	Member	City of Hampton
<u>Non-Voting Members:</u>	<u>Title</u>	<u>Source of Appointment</u>
Frederick T. Stant III	Non-Voting Member	Commonwealth Transportation Board
Jennifer DeBruhl	Non-Voting Member	Director of VDRPT
<u>Non-Voting Members:</u>	<u>Title</u>	<u>Source of Appointment</u>
Stephen Brich	Non-Voting Member	Virginia Department of Transportation
Stephen A. Edwards	Non-Voting Member	Executive Director, Virginia Port Authority

HRTAC Executive Director

Kevin B. Page serves as the Executive Director of HRTAC. He has served the Commission in this role for over 8 years. Mr. Page is responsible for management of the day-to-day administrative affairs of the Commission, which relate principally to the support of more than \$11.57 billion in mega highway transportation projects and \$997 million in transit projects that are planned for Hampton Roads. Mr. Page

is also responsible for coordinating the management and investment of the HRTF funds received by HRTAC. Mr. Page has over 30 years of multimodal leadership experience within the transportation industry and has served in executive roles on major infrastructure funding and construction initiatives and in forging strategic partnerships, including serving on various transportation boards and safety committees. Before joining HRTAC, he spent over 10 years in executive leadership roles over transit and rail funding and program delivery with the Virginia Department of Rail and Public Transportation, 7 years as the Transit Manager of Petersburg, Virginia's separate transit and school bus enterprise operations, and 2 years with the Greater Richmond Transit Company in Richmond, Virginia. He has led the planning, development and implementation of a wide variety of projects including large scale public-private and multistate partnerships, the safety oversight of transportation systems, corridor long environmental studies, short and long-range planning and financing, and was instrumental in the development and delivery of regional Amtrak passenger train service and the expansion of the Virginia Railway Express to serve new markets. Mr. Page earned a B.S. degree in Urban Studies and Planning from Virginia Commonwealth University, is a graduate of the Virginia Executive Institute, and his professional awards of recognition include the VDOT Peer Award, VDOT Commissioner's Award of Excellence, the Virginia Economic Developer's Association Economic Development Ally of the Year Award, HB2 Team Excellence in Teamwork Award, CSX Transportation Partnership Award, the Commonwealth Transportation Safety Board's Award for Rail Safety, and the Amtrak President's State Partner Award.

HRTAC Annual Budget

As adopted, HRTAC's Fiscal Year 2024 administrative and operating expense budget totals \$8,368,402 and is expected to be funded proportionately by the HRTF and the Hampton Roads Regional Transit Fund. The largest expenditures in the budget are personnel and professional services costs. As required by the HRTAC Act, the annual budget is limited solely to the administrative and operating expenses of the Commission and does not include funds for construction or acquisition of transportation facilities or for the performance of any transportation service. See "HAMPTON ROADS TRANSPORTATION FUND – General" and "SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds" herein, and "Table 5: HRTAC Operating Budget" in Appendix E. The financial activities of the Commission are overseen by the Commission's Finance Committee and are subject to annual audit (as described below) and annual reporting to the Commonwealth's Joint Legislative Commission on Transportation Accountability.

DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS

The primary documents that guide the Commission's transportation funding priorities are the HRTPO Long-Range Transportation Plan ("LRTP") and HRTAC's Six-Year Funding Plan, both of which are described below.

HRTPO's Long-Range Transportation Plan

HRTAC sets its long-range transportation funding priorities in coordination with the conceptual, regional consensus developed through meetings of the HRTPO. The HRTPO is a metropolitan planning organization ("MPO") established in accordance with the Federal-Aid Highway Act of 1962, as amended. Federal regulations require that urbanized areas throughout the United States have MPOs to conduct a continuing, cooperative and comprehensive transportation planning process. Urbanized areas are defined as areas with a population of 200,000 or greater, known as Transportation Management Areas ("TMAs"). MPOs participate in a federal certification review of the transportation planning process for their TMAs every four years. MPOs must be certified in order to receive federal funds for transportation projects. The

transportation planning process must result in plans and programs that consider all modes of transportation and support metropolitan community development and social goals. These plans and programs must lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods.

HRTAC participates in the HRTPO's planning process by preparing and updating a fiscally constrained long-range regional transportation project funding plan for the High Priority Projects in Planning District 23 which includes transportation improvements of regional significance and improvements necessary or incidental thereto. It is important to note the "constrained" aspect of HRTAC's plan for regional priority projects, which means HRTAC has identified only those projects which could be funded from available resources in HRTAC's 2045 Long-Range Funding Plan ("HRTAC 2045 Long Range Funding Plan"). The HRTPO's 2045 LRTP includes long-range and "Vision Plan" projects as detailed herein. HRTAC communicates its long-range plan to the HRTPO, and the HRTPO works to incorporate such plan into the constrained section of its broader Long-Range Transportation Plan. HRTPO's 2045 LRTP includes the HRELN Project which is being funded in part by the Series 2023A Notes.

The HRTPO 2045 LRTP is the official transportation blueprint guiding multimodal transportation investments for Hampton Roads and is used to (i) identify regional priority projects, and (ii) help determine project sequencing based on project readiness and available funding. As the guiding regional transportation plan, the HRTPO 2045 LRTP is designed to be a "living" document, updated through an amendment process. HRTAC most recently amended its HRTAC 2045 Long Range Funding Plan on June 15, 2023, to conform to updated cost estimates and opening year information for multiple regional priority projects to be supported by HRTAC funds and to reflect updated revenue forecasts used to fiscally-constrain those projects. Of the total \$12.5 billion highway and transit projects included in the HRTAC 2045 Long Range Funding Plan, HRTAC's regional high priority highway project costs included are approximately \$11.57 billion, expressed in year-of-expenditure dollars to properly reflect inflation, of which HRTAC has programmed only a subset in the Six-Year Funding Plan. See "Table IV: HRTAC Projects Under Agreements With VDOT" and "Table V: HRTAC Projects Under Development with VDOT." HRTAC's approach has been to provide funding as the project planning, engineering and readiness process warrants, and in coordination with VDOT.

As HRTAC allocates funds to projects in its 2045 Long Range Funding Plan and FY 2024 – FY 2030 Six-Year Funding Plan Update, those projects are reflected in HRTPO's Transportation Improvement Program ("TIP"), which is a four-year program for the implementation of surface transportation projects in Hampton Roads. The TIP includes all funded transportation projects of regional significance.

The HRTAC projects under agreements with VDOT in the HRTPO 2045 LRTP include the Interstate 64 Peninsula Widening Project in Newport News, York County and James City County, the I-64/I-264 Interchange Improvements Project in Norfolk and Virginia Beach, and the I-64 Southside Widening and High Rise Bridge Project (Phase I) in Chesapeake (collectively, the "Initial Financed Projects"), the HRBT Expansion Project, and HRELN Segments 4C and 1A, as well as certain HRELN preliminary engineering work. See "Table IV: HRTAC Projects Under Agreements with VDOT."

The HRTAC projects under development with VDOT in the HRTPO 2045 LRTP, which are in various stages of analysis, preliminary engineering, right of way, and construction, include HRELN Segment 4A/4B and 1B and "Gen Three Projects" (including I-64/Denbigh Boulevard Interchange, I-264/Independence Boulevard Interchange, and I-264/I-64 Phase III-A). These projects are incorporated in HRTAC's current Six-Year Funding Plan (for Fiscal Years 2024 through 2030). HRTAC has [programmed] construction funding for these projects. HRTAC will continue to refine costs for these projects and will

engage with VDOT for funding commitments based on project readiness and funding availability. See “Table V: HRTAC Projects Under Development with VDOT.”

[Other long-range HRTAC projects in the 2045 LRTP include the Bowers Hill Interchange, I-664 Widening to College Boulevard, I-64/I-464 Loop Ramps, I-264 Widening, VA 164 Widening, and the VA 168 Bypass to be completed by 2045. See “Table VI: Future HRTAC Projects in the 2045 Long Range Funding Plan.”]

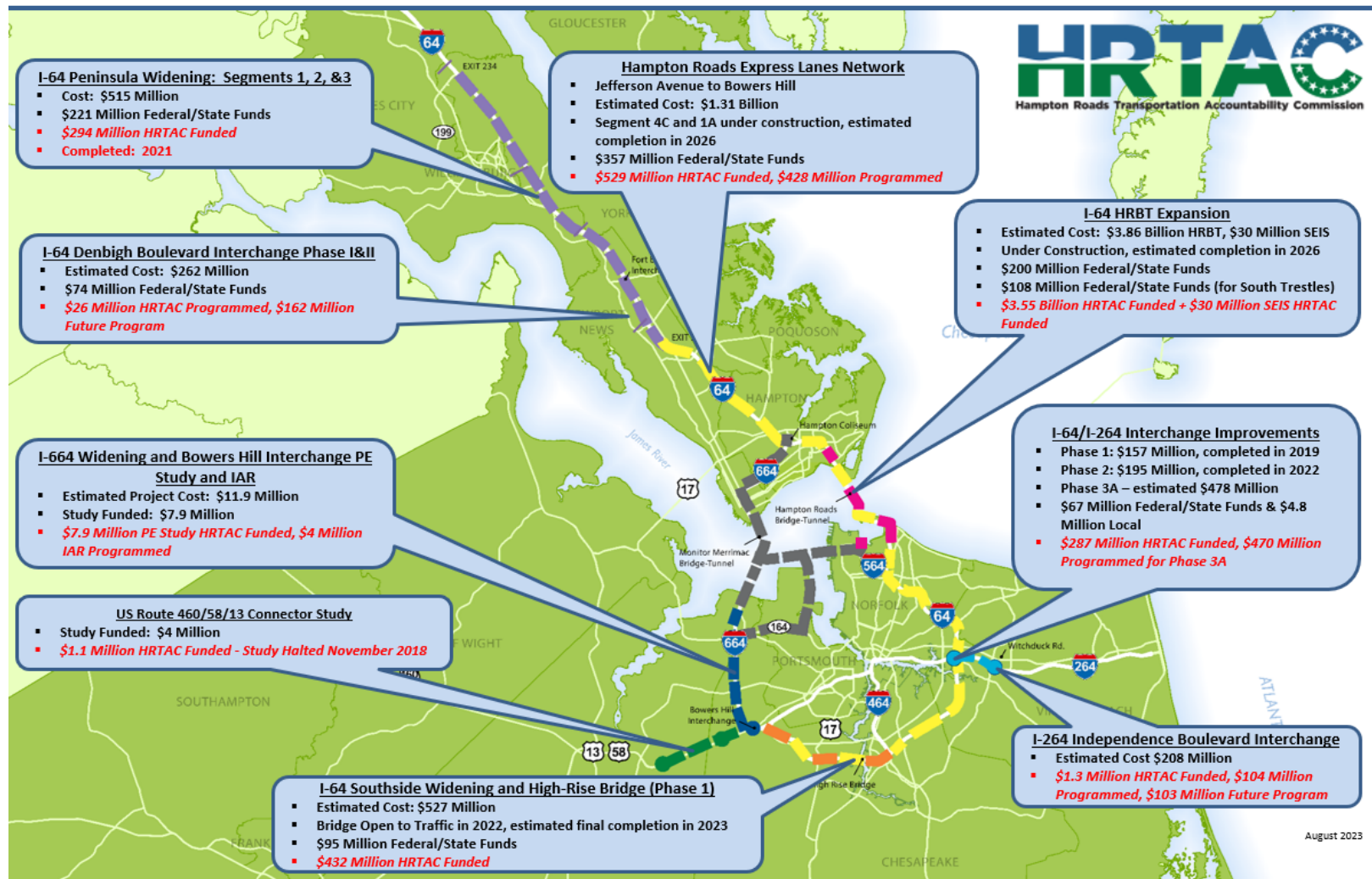
Projects not included in the HRTPO 2045 LRTP, but included within a “Vision Plan” for the region, are longer term and will require additional study and evaluation. They will not be completed unless additional resources become available. The projects within the “Vision Plan” include construction of an I-564/I-664 Connector (dubbed “Patriot’s Crossing”) to connect Norfolk with the existing Monitor Merrimac Memorial Bridge Tunnel, improvements to the I-664 Monitor-Merrimac Memorial Bridge-Tunnel connecting Suffolk with Newport News, improvements to VA 164 in Portsmouth, and construction of a VA I-64 Connector to the Patriot’s Crossing.

The map on the following page illustrates the HRTAC projects under agreement with VDOT and under development with VDOT [to be updated].

[Remainder of page intentionally left blank]

Hampton Roads Regional Transportation Priority Projects

\$5.1 Billion HRTAC Funded Under Construction



HRTAC Six-Year Funding Plan

The Commission is required by the HRTAC Act to develop and adopt the Six-Year Funding Plan (which is a rolling six-year plan) to provide for the expenditure of funds over a four- to six-year period for projects that have been planned and also programmed for actual development. The Six-Year Funding Plan is required by the HRTAC Act to align as much as possible with the Statewide Transportation Plan maintained by the CTB and described below.

HRTAC's current Six-Year Funding Plan (for Fiscal Years 2024 through 2030) was adopted in June 2021 and updated on June 15, 2023, and includes the Initial Financed Projects, the HRBT Expansion Project, the HRELN Project, and the Gen Three Projects. The current Six-Year Funding Plan identifies a variety of funding sources that may be utilized by the Commission, including HRTF funds applied directly to construction costs ("PayGo") (in lieu of leveraged to generate bond or loan proceeds), the remaining proceeds of Bonds previously issued under the Master Indenture, additional Bonds (including the 2023 HRTF TIFIA Loan secured as a Subordinate Obligation under the Master Indenture), toll revenue debt proceeds, VDOT funding, and other public funds.

The Six-Year Funding Plan is designed to prioritize the funding of projects in a manner consistent with (i) the regional project sequencing set forth in the HRTPO 2045 LRTP and HRTAC 2045 Long Range Funding Plan, (ii) the CTB's Statewide Transportation Plan and its prioritization process (described below), and (iii) the goal of providing the greatest impact on reducing congestion for the greatest number of citizens residing in the Member Localities.

Statewide Transportation Plan

Under state law, the CTB's Statewide Transportation Plan must incorporate the measures and goals of the approved long-range plans developed by applicable regional organizations. In addition, consistent with the Statewide Transportation Plan, the CTB is required to develop, in accordance with federal transportation requirements, and in cooperation with MPOs situated within the Commonwealth, a statewide prioritization process for the use of available highway funds in a manner that considers congestion mitigation, economic development, accessibility, safety, environmental quality, and other factors.

The current statewide prioritization process for transportation projects financed by the Commonwealth was established under Chapter 726, 2014 Va. Acts of Assembly, enacted on April 6, 2014, and codified in Virginia Code Section 33.2-214.1. This project selection process, known as SMART SCALE (System for the Management and Allocation of Resources for Transportation) (the "SMART SCALE Program"), is a competitive prioritization process administered by the Commonwealth to advise the CTB in its funding decisions. For each SMART SCALE cycle, the screening and scoring results are presented to the CTB and the public and a Six-Year Improvement Program for the Commonwealth is developed based on CTB direction and the SMART SCALE scoring results. As enacted, the prioritization process utilized by the CTB is designed to be an objective and quantifiable analysis for project selection that considers, at a minimum, congestion mitigation, economic development, accessibility, safety, and environmental quality. When evaluating and scoring projects within the geographical confines of HRTAC, the SMART SCALE Program requires the CTB to weigh congestion mitigation as the most important factor.

The SMART SCALE Program has committed approximately \$384 million toward the Initial Financed Projects. [VDOT contributed \$200 million of state-controlled federal funds to the HRBT Expansion Project.]

The Six-Year Funding Plan assumes no additional SMART SCALE funding beyond these amounts. The HRTPO will submit HRTAC project SMART SCALE funding applications for the next allocation

cycle. For each SMART SCALE cycle, basic project information must be submitted by June 1st of the calendar year, and final project applications must be submitted by August 1st.

VDOT Agreements

HRTAC has entered into Standard Project Agreements with VDOT for the Initial Financed Projects and the Initial HRELN Projects (defined and described below), and the PAFA with VDOT for the HRBT Expansion Project, all of which relate to HRTAC's funding of approved projects and will be part of VDOT's statewide transportation system. Under certain Standard Project Agreements and the PAFA, the CTB has agreed to also contribute state funds to construction. Under all Standard Project Agreements to date and the PAFA, VDOT has agreed to provide administration of project construction as reimbursed by HRTAC, and VDOT has assumed responsibility applicable for operation and maintenance of all roadway, bridge and tunnel structures at no cost to HRTAC. HRTAC's construction funding obligation under each of these agreements generally is limited to the amounts budgeted. If VDOT determines it may incur additional, unbudgeted costs, such as to cover construction cost overruns, HRTAC generally has the option to provide additional funding, cancel the applicable projects or a portion thereof, or authorize VDOT to make modifications or reductions in scope or design to stay within the initial budget under the applicable Standard Project Agreement or PAFA. The HRTAC Act does not permit HRTAC to include in its budget any HRTF funds to independently operate and maintain funded projects or to perform any transportation service therefore. HRTAC has no control over the long-term impact of its spending on future obligations of the Commonwealth. See **"INVESTMENT CONSIDERATIONS – Risks Arising from Operating and Maintenance Burdens on Commonwealth."**

HRTAC's executed Standard Project Agreements and funding shares to date are described in Table IV below. Upon issuance of the Series 2023A Notes, HRTAC will continue to contribute funds to the HRELN Project and Gen Three Projects, and such contributions will be made from proceeds of Bonds issued under the Master Indenture, PayGo funds from the HRTF, or toll revenue debt proceeds. See **"DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS."**

Project development and delivery of each of the HRTAC projects will continue to be addressed using HRTAC's Standard Project Agreement ("SPA") engagement process between HRTAC and VDOT. This process begins with an initial project development SPA to develop preliminary engineering, conduct environmental ("NEPA") required work, identify right-of-way needs, and to prepare a project budget and schedule with contingencies. The first step is the initial project development SPA for each segment that will provide confidence of project constructability, permit ability, and budget identification. Funding and construction agreements are in place for current projects relating to the Segments 2A and 2B, and Segment 3 tolling infrastructure projects as well as Segment 4C and 1A (the "Initial HRELN Projects"). Additional project development and delivery agreements are expected for the HRELN Project as geographically identified in the Master Tolling Agreement. Segments 1B and 4A/4B are the remaining HRELN segments to be constructed to complete the HRELN Project. The construction SPAs for HRELN Segments 1B and 4A/4B, as well as the Gen Three Projects, will be contingent upon project readiness and HRTAC's funding availability.

VDOT, HRTAC, and the TIFIA Lender are expected to enter into the 2023 Direct Agreement with respect to the TIFIA Lender's oversight of Segment 4C of the HRELN Project. See **"2023 HRTF TIFIA LOAN AGREEMENT – 2023 Direct Agreement."**

[Remainder of page intentionally left blank]

Table IV
HRTAC Projects Under Agreements With VDOT (in Millions)

	Prior Years	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	Total ⁽¹⁾
<u>Interstate 64 Peninsula Widening (Segments 1-3)</u>								
HRTAC Funding	\$294	\$0	\$0	\$0	\$0	\$0	\$0	\$294
VDOT Funding	<u>221</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>221</u>
Total	<u>\$515</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$515</u>
<u>I-64/I-264 Interchange Improvements (Phases I-II)</u>								
HRTAC Funding	\$280	\$0	\$0	\$0	\$0	\$0	\$0	\$280
VDOT Funding	68	0	0	0	0	0	0	68
HRTPO and Local Funding	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
Total	<u>\$353</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$353</u>
<u>I-64 Southside Widening and High Rise Bridge Project (Phase I)</u>								
HRTAC Funding	\$432	\$0	\$0	\$0	\$0	\$0	\$0	\$432
VDOT Funding	<u>95</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>95</u>
Total	<u>\$527</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$527</u>
<u>HRBT Expansion Project</u>								
HRTAC Funding ⁽²⁾	\$2,830	\$421	\$291	\$11	\$0	\$0	\$0	\$3,553
VDOT Funding ⁽³⁾	<u>93</u>	<u>126</u>	<u>90</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>309</u>
Total	<u>\$2,923</u>	<u>\$547</u>	<u>\$381</u>	<u>\$11</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$3,862</u>
<u>HRELN - Segment 1A, 4C, and PE Costs⁽⁴⁾</u>								
HRTAC Funding	\$124	\$96	\$144	\$120	\$44	\$0	\$0	<u>\$529</u>
VDOT Funding	<u>38</u>	<u>62</u>	<u>4</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>106</u>
Total	<u>\$162</u>	<u>\$158</u>	<u>\$148</u>	<u>\$123</u>	<u>\$45</u>	<u>\$0</u>	<u>\$0</u>	<u>\$635</u>
<u>Project Development</u>								
HRTAC Funding	\$59	\$0	\$0	\$0	\$0	\$0	\$0	\$59
VDOT Funding	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$59</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$59</u>
<u>Total To-Date Standard Project Funding Agreements or Project Administration and Funding Agreement With VDOT</u>								
HRTAC Funding	\$4,019	\$517	\$435	\$131	\$44	\$0	\$0	\$5,146
VDOT Funding	515	188	94	3	0	0	0	799
HRTPO and Local Funding	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
Total	<u>\$4,539</u>	<u>\$705</u>	<u>\$529</u>	<u>\$134</u>	<u>\$45</u>	<u>\$0</u>	<u>\$0</u>	<u>\$5,951</u>

Source: HRTAC, as of September 2023.

Notes:

- (1) Totals may not add up due to rounding.
- (2) Includes \$345 million TIFIA Series 2021 Toll Bond issued under the Master Toll Indenture.
- (3) Includes \$109 million in VDOT Funded HRBT South Trestle Replacement Costs in Project Administration and Funding Agreement (not included in HRTAC Six-Year Funding Plan), [and includes \$200 million in VDOT-controlled federal funding].
- (4) Include preliminary engineering work for Segments 4A/4B and 1B.

The following Table V sets forth HRTAC projects programmed in the Six-Year Funding Plan for which an applicable SPA has not yet been executed between HRTAC and VDOT.

Table V
HRTAC Projects Under Development with VDOT (in Millions)

	Programmed Costs								To Be Programmed Costs				Total ⁽¹⁾
	Prior Years	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	FY 2034	
<u>HRELN - Segment 4A/4B and 1B</u>													
HRTAC Funding		\$0	\$26	\$70	\$123	\$108	\$76	\$24	\$0	\$0	-	-	\$428
VDOT Funding	-	<u>0</u>	<u>26</u>	<u>76</u>	<u>90</u>	<u>41</u>	<u>16</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>-</u>	<u>-</u>	<u>251</u>
Total		<u>\$0</u>	<u>\$52</u>	<u>\$146</u>	<u>\$214</u>	<u>\$149</u>	<u>\$92</u>	<u>\$25</u>	<u>\$0</u>	<u>\$0</u>	<u>-</u>	<u>-</u>	<u>\$678</u>
<u>I-64/Denbigh Boulevard Interchange</u>	-	-	-										
HRTAC Funding		\$0	\$2	\$3	\$6	\$6	\$3	\$4	\$4	\$50	\$54	\$54	\$188
VDOT Funding		<u>1</u>	<u>2</u>	<u>5</u>	<u>15</u>	<u>20</u>	<u>18</u>	<u>13</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>74</u>
Total		<u>\$1</u>	<u>\$4</u>	<u>\$8</u>	<u>\$21</u>	<u>\$26</u>	<u>\$20</u>	<u>\$16</u>	<u>\$4</u>	<u>\$50</u>	<u>\$54</u>	<u>\$54</u>	<u>\$262</u>
<u>I-264/Independence Boulevard Interchange</u>													
HRTAC Funding		\$0	\$1	\$1	\$2	\$4	\$4	\$33	\$59	\$44	\$44	\$15	\$206
VDOT Funding		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total		<u>\$0</u>	<u>\$1</u>	<u>\$1</u>	<u>\$2</u>	<u>\$4</u>	<u>\$4</u>	<u>\$33</u>	<u>\$59</u>	<u>\$44</u>	<u>\$44</u>	<u>\$15</u>	<u>\$206</u>
<u>I-264/I-64 Phase III-A</u>	-												-
HRTAC Funding		\$6	\$2	\$1	\$61	\$122	\$115	\$115	\$48	\$0	\$0	\$0	\$470
VDOT Funding		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total		<u>\$6</u>	<u>\$2</u>	<u>\$1</u>	<u>\$61</u>	<u>\$122</u>	<u>\$115</u>	<u>\$115</u>	<u>\$48</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$470</u>
Total HRTAC Funding		\$7	\$30	\$75	\$193	\$240	\$197	\$176	\$111	\$93	\$98	\$68	\$1,292
Total VDOT Funding		<u>1</u>	<u>28</u>	<u>81</u>	<u>105</u>	<u>62</u>	<u>34</u>	<u>14</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>324</u>
Grand Total		<u>\$7</u>	<u>\$58</u>	<u>\$156</u>	<u>\$298</u>	<u>\$301</u>	<u>\$231</u>	<u>\$190</u>	<u>\$111</u>	<u>\$93</u>	<u>\$98</u>	<u>\$68</u>	<u>\$1,616</u>

Source: HRTAC, as of September 2023.

Note:

(1) Totals may not add up due to rounding.

The HRTAC projects in the 2045 LRTP that are subject to funding availability or are planned on a vision basis, but not yet programmed for actual development, are shown in Table VI below. HRTAC may receive SMART SCALE and other funding for these projects in the future. The expected completion dates and estimated costs shown below incorporate a number of assumptions and are subject to change.

Table VI
Future HRTAC Projects in the HRTAC 2045 LRTP (in Millions)⁽¹⁾

<u>Project</u>	<u>Expected Completion</u>	<u>Estimated Cost</u>
Bowers Hill Interchange	2034	\$771
I-664 Widening to College Blvd	2035	1,529
I-64/I-464 Loop Ramps	2037	339
I-264 Widening	2040	669
VA-164 Widening	2045	493
VA-168 Bypass	2045	355

Source: HRTAC, 2045 Long Range Plan of Finance Update adopted June 17, 2021 and updated on June 15, 2023.

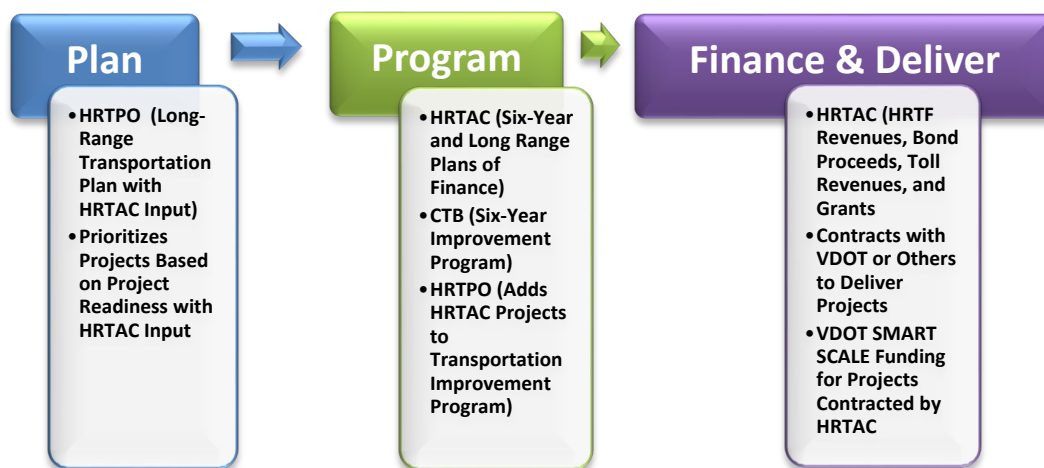
Note:

(1) Adjusted net approved Six-Year Funding Plan contributions. HRTAC Assumes \$119 million funding from VDOT for the HRELN Project; also assumes future SMART SCALE funding of \$971 million for other projects, as estimated by HRTPO.

Collaborative Planning Process

As outlined above, the planning, programming, funding, and delivery of HRTAC projects requires input and collaboration between HRTAC, HRTPO and VDOT. HRTAC also receives administrative and technical support upon request from VDOT and DRPT. In general, the three entities have different, but interdependent roles: HRTPO undertakes regional transportation planning, HRTAC provides funding from the HRTF (in addition to toll revenues and other available sources), and VDOT delivers and administers the projects. The interplay and cooperation among the various public entities is summarized by the following diagram and bullet points.

[Remainder of page intentionally left blank]



- HRTPO's LRTP identifies priority projects in the constrained plan or vision plan as under study/development/construction.
- HRTAC develops six-year and long-range plans of finance to guide in project funding for development and construction; HRTAC's plans feed into HRTPO's LRTP and when HRTAC allocates funds to specific projects, they are added to HRTPO's Transportation Improvement Program.
- The CTB selects Local Preferred Alternative, maintains Statewide Transportation Plan and the Commonwealth's Six-Year Improvement Program, allocates state funding to projects in the VDOT Six-Year Funding Program, and awards SMART SCALE funding through its competitive statewide prioritization process.
- VDOT assists in project readiness and construction through HRTAC/VDOT Standard Project Agreements.

HRTAC Debt Management Plan

Established on September 21, 2017 and as later amended, most recently on March 16, 2023, the Commission's Debt Management Plan helps guide the Commission with respect to the funding and delivery of the projects in the Commission's Six-Year Funding Plan, currently through Fiscal Year 2030. The purpose of the plan is to support the implementation of HRTAC's construction funding program while achieving the lowest cost of capital on its borrowings. The Debt Management Plan evolves over time and sets forth the following goals:

(a) Full funding of project costs through Fiscal Year 2030 identified in the current Six-Year Funding Plan including the HRBT Expansion Project and the HRELN through completion, as well as Gen Three Projects into construction. HRTAC's commitments related to funding the projects under development with VDOT, see "Table V: HRTAC Projects Under Development with VDOT," are subject to the execution and delivery of one or more Standard Project Agreement(s) with VDOT in the future.

(b) Issuance of Bonds as construction progresses (which began in calendar year 2018 with issuance of the Series 2018A Bonds), including Bonds to reimburse PayGo expenditures, so that Bond sales

can be minimized in later years during which the Commission would likely have greater expenditure requirements;

(c) Establishment and maintenance of a structure suited for subsequent Bond issuances needed for HRTAC projects in the 2045 LRTP; and

(d) Exploration of the possibility of credit assistance under additional TIFIA loans backed by HRTAC Revenues under the Master Indenture and/or toll revenue-backed TIFIA loans, issued under indenture(s) separate from the Master Indenture, and including the use of bond anticipation notes where appropriate.

To provide for additional funding for HRTAC-programmed projects, HRTAC currently expects to issue approximately \$_____ million* of debt in FY 2024 and FY 2025, including the Series 2023A Notes, and possible additional debt thereafter to be secured by HRTAC Revenues. Such additional debt and their lien level under the Master Indenture is still to be determined. Where appropriate, HRTAC may continue to utilize bond anticipation notes in conjunction with TIFIA loans.

The Debt Management Plan incorporates a number of assumptions regarding project costs, project timing, inflation rates, interest rates, revenue growth and federal and state funding, among others. The likelihood that all assumptions will prove to be accurate cannot be predicted. Assumptions and actual results are subject to change and to the occurrence of unanticipated events, such as those described under the caption “INVESTMENT CONSIDERATIONS.” HRTAC’s ability to incur indebtedness pursuant to its Debt Management Plan is in all instances subject to the conditions set forth in the Master Indenture and Related Supplemental Indentures, including but not limited to debt service coverage tests. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES” above.

The funding components and the debt issuance plan incorporated in the Debt Management Plan are described in Tables VII and VIII below.

Table VII
Estimated HRTAC Project Costs by Funding Source (in Millions)⁽¹⁾
(Fiscal Years 2024 to 2030)

Sources	Amounts
HRTF Bonds and TIFIA Loans ⁽²⁾	\$302
Toll Revenue Debt ⁽³⁾	575
HRTAC PayGo	1,506
VDOT Funding	339
Federal Funding	109
Total	\$2,831

Source: HRTAC.

Notes:

⁽¹⁾ Preliminary, subject to change. Totals may not add due to rounding.

⁽²⁾ Includes Senior Bonds, Intermediate Lien Obligations and Subordinate Obligations, both existing and those which may be incurred in the future. See Tables VIII and IX herein.

⁽³⁾ May include one or more TIFIA loans.

* Preliminary, subject to change.

Table VIII
HRTAC Debt Issuance Plan in Par Amounts (in Millions)⁽¹⁾

	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	Total
HRTF Bonds/TIFIA⁽²⁾	\$141	\$153	-	-	-	\$294
Toll Revenue Debt⁽³⁾	-	-	\$0	\$208	\$367	575
Total	\$141	\$153	\$0	\$208	\$367	\$869

Source: HRTAC.

Notes:

⁽¹⁾ Preliminary, subject to change.

⁽²⁾ Includes the 2023 HRTF TIFIA Loan, and additional Senior Bonds or Intermediate Lien Obligations which may be incurred in the future. See Table VII herein.

⁽³⁾ Includes multiple toll revenue TIFIA loans and the expected year of draws.

FORWARD-LOOKING STATEMENTS

Certain statements included or incorporated by reference in this Official Statement, including the Appendices hereto, constitute “forward-looking statements.” Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “project,” “anticipate,” “intend,” “believe,” “budget” or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. No assurance can be given that actual results will meet the Commission’s forecasts in any way, regardless of any level of optimism communicated in this Official Statement, including the Appendices hereto. The Commission will not issue any updates or revisions to forward-looking statements if or when its expectations, or events, conditions or circumstances on which such statements are based, change.

PROJECTED OPERATING RESULTS AND DEBT SERVICE COVERAGE

The following Table IX presents the Commission’s projections for HRTAC Revenues, Principal and Interest Requirements and related measures of debt service coverage through Fiscal Year _____. Such projections present management’s expectations based on various assumptions described therein and herein (especially as noted in the footnotes to Table IX), financials developed by the Commission and financial analysis prepared by the Commission’s Financial Advisor. Anticipated issuances of future Bonds, as set forth in Table VIII, are not included.

Actual future HRTAC Revenues may vary from those presented below. None of the Commission, the Financial Advisor or the Underwriters warrants or represents that the estimates and projections in Table IX will be met. In addition, the Commission gives no assurances that the actual financial results of future HRTAC Revenues and debt service coverage will meet or exceed the estimates and projections set forth in Table IX. See **“FORWARD-LOOKING STATEMENTS”** and **“INVESTMENT CONSIDERATIONS – Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues,”** **“– Forward-Looking Statements and Forecasts,”** and **“– Actual Results May Diverge from Projections.”**

[Remainder of page intentionally left blank]

Table IX - Projected HRTF Bonds' Debt Service and Debt Service Coverage Ratio

Pledged Revenues ^{(1), (2)}				Principal and Interest Requirements ⁽²⁾				Debt Coverage		
Fiscal Year	Additional Retail Sales and Use Tax ⁽⁴⁾	Additional Wholesale Motor Vehicle Fuels Tax ⁽⁵⁾	Total Pledged Revenues	Existing Senior Lien	[Existing Intermediate Lien]	Existing Subordinate Lien	[Series 2023A Notes Intermediate Lien] ⁽⁶⁾	Senior Lien ⁽⁶⁾	Intermediate Lien	Subordinate Lien
			[A]	[B]	[C]	[D]	[E]	[A]/([B]+[E])	[A]/([B]+[C]+[E])	[A]/([B]+[C]+[D]+[E])
2023										
2024										
2025										
2026										
2027										
2028										
2029										
2030										
2031										
2032										
2033										
2034										
2035										
2036										
2037										
2038										
2039										
2040										
2041										
2042										
2043										
2044										

2045
2046
2047
2048
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2060

Notes:

- (1) Consists of HRTAC Revenues.
- (2) See “MONTHLY REVENUES – HRTAC and HRTF Revenues.”
- (3) Does NOT include future issuances of Senior Bonds, Intermediate Lien Obligations, or Subordinate Lien Obligations. HRTAC’s current anticipation is that after issuance of the Series 2023A Notes, approximately \$_____ million will be needed in Fiscal Year _____ to fund projects in the Six-Year Funding Plan. See “Table VIII: HRTAC Debt Issuance Plan in Par Amounts” herein. The lien level of such debt has not been determined. See “DEVELOPMENT OF CAPITAL EXPENDITURE AND FUNDING PLANS – HRTAC Debt Management Plan.”
- (4) [Fiscal Years _____ forecast provided by VA Department of Taxation, starting 2029, assumes a 3.56% annual growth rate based on a compounded annual growth calculation period comprised of historical Local Option Sale and Uses Tax from 2011 to 2015, historical HRTF Sales and Uses Tax Revenue from 2016 to 2021, and VA Department of Taxation projection from 2022 to 2028.]
- (5) Fiscal Years _____ forecast provided by VA Department of Taxation, starting 2029, assume a -0.36% annual growth rate based on a compounded annual growth calculation period comprised of historical and projected statewide taxable fuel gallons from 2016 to 2028.
- (6) Preliminary, subject to change.

None of the Commission, the Financial Advisor or the Underwriters warrants or represents that the estimates or amounts set forth in Table IX or the _____ VA Department of Taxation estimates will be met. In addition, the Commission gives no assurances that the actual financial results of future HRTAC Revenues and debt service coverage will meet or exceed the presentation set forth in Table IX. See **“FORWARD-LOOKING STATEMENTS” and “INVESTMENT CONSIDERATIONS – Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues,” “– Forward-Looking Statements and Review Presentation,” and “– Actual Results May Diverge From Review Presentation.**

MONTHLY REVENUES

The following tables show historical collections of the Additional Sales and Use Tax and the Additional Motor Vehicle Fuels Tax on a monthly basis. The following tables reflects point of sale cash collections. See also “Table I: Historical Hampton Roads Transportation Fund Revenues.”

Table X
HRTF Revenues on a Monthly Basis

Additional Sales and Use Tax (millions)

Month of Sales	FY 2021	FY 2022	FY 2023	2021 vs. 2020 ⁽²⁾	2022 vs. 2021 ⁽²⁾	2023 vs. 2022 ⁽²⁾
July	\$13.2	\$13.7	\$	2.0%	3.9%	%
August	13.3	14.0		1.7	5.2	
September	13.4	16.0		11.0	19.7	
October	13.4	16.0		10.0	19.3	
November	13.4	15.2		7.2	13.5	
December	16.2	16.8		11.1	3.3	
January	12.0	12.2		14.1	1.6	
February	11.6	13.1		15.5	13.2	
March	15.9	16.4		40.8	3.0	
April	15.3	16.3		45.6	6.3	
May ⁽¹⁾	22.1	15.8		23.9	-28.2	
June	11.8	19.4		37.0	64.0	
Total through December ⁽²⁾	\$82.9	\$206.90	\$			
Total ⁽²⁾	\$171.6	\$184.9	\$			

⁽¹⁾ May includes actual sales in May and 90% of sales in June of the prior fiscal year for certain vendors subject to the Commonwealth’s accelerated sales tax rules.

⁽²⁾ Totals and percentages may not add due to rounding.

Additional Motor Vehicle Fuels Tax (millions)

Month of Sales	FY 2021	FY 2022	FY 2023	2021 vs. 2020 ⁽¹⁾	2022 vs. 2021 ⁽¹⁾	2023 vs. 2022 ⁽¹⁾
July	\$5.0	\$5.2		-7.4%	5.9%	
August	4.9	5.5		-9.4	12.6	
September	5.0	5.1		-1.5	2.2	
October	4.8	5.0		-6.8	4.4	
November	4.3	4.7		-10.6	11.2	
December	4.7	4.8		-6.8	3.2	
January	4.3	4.2		-4.6	-1.6	
February	3.7	4.6		-14.0	26.1	
March	5.0	5.0		10.8	0.4	
April	4.8	4.9		19.3	1.0	
May	5.2	4.9		66.8	-6.6	
June	4.5	4.7		15.0	4.3	
Total through December ⁽¹⁾	\$28.7	\$30.3				
Total ⁽¹⁾	\$56.0	\$58.7				

⁽¹⁾ Totals and percentages may not add due to rounding.

INVESTMENT CONSIDERATIONS

The Series 2023A Notes Are Limited Obligations

The Series 2023A Notes are limited obligations of HRTAC that are payable solely from the funds pledged under the Master Indenture for such purpose. The Series 2023A Notes are not a debt of the Commonwealth or any political subdivision thereof (including any Member Locality or any member of the HRTPO or the HRPDC) other than the Commission, and the Series 2023A Notes do not constitute indebtedness within the meaning of any debt limitation or restriction. Neither the faith and credit nor the taxing power of the Commonwealth or any of its political subdivisions (including any Member Locality or any member of the HRTPO or the HRPDC) is pledged to the payment of the Series 2023A Notes. The Series 2023A Notes are not secured by a pledge of any toll revenues or any other revenues generated by HRTAC projects.

The Series 2023A Notes Are Intermediate Lien Obligations

The Series 2023A Notes are Intermediate Lien Obligations under the Master Indenture. Therefore, payment of principal of and interest on the Series 2023A Notes is subordinate to the payment of principal of and interest on all Senior Bonds, including the Series 2018A Bonds, the Series 2020A Bonds, the Series 2022A Bonds, and any Senior Bonds that may be issued by the Commission in the future.

Risks of Non-Appropriation and Future Legislative or Administrative Actions Affecting Revenues

Availability of HRTF Revenues is Subject to Appropriation. The General Assembly is responsible for setting the rates of the taxes and fees from which the HRTF Revenues are derived and for appropriating such revenues from the state budget to the HRTF. HRTAC makes no representation that the General

Assembly will maintain the rates of the taxes and fees or continue to make appropriations of amounts to the HRTF. In addition, HRTAC makes no representation that the General Assembly will not repeal or materially modify the legislation creating the HRTF or imposing the taxes and fees. The General Assembly is not legally required to make the aforementioned appropriations or to refrain from repealing or modifying such legislation. Legislative considerations regarding the Commonwealth's budget priorities could materially impact HRTAC's ability to continue receiving the HRTF Revenues.

Under the Virginia Constitution, no appropriation is valid for more than two years and six months after the adjournment of the session of the General Assembly at which the appropriation was made. The General Assembly of the Commonwealth is not obligated to make any future appropriations, and the Commission makes no representation that the General Assembly will keep the HRTF in existence or that appropriations to the HRTF will be made by the General Assembly in any future fiscal year of the Commonwealth. As a practical matter there is no effective remedy if the Governor or the General Assembly fail to provide for HRTF funding in the Commonwealth's budget. See "HAMPTON ROADS TRANSPORTATION FUND—Subject-to-Appropriation" above.

Political Risks. As in the Hampton Roads region, the General Assembly has established regional motor vehicle fuels taxes in the Northern Virginia region (Planning District 8), in the I-81 Corridor of western Virginia (Planning Districts 3, 4, 5, 6 and 7) (the "I-81 Corridor"), and in the Central Virginia region (Planning District 15). The Northern Virginia region also has a regional sales tax like Hampton Roads, but the I-81 Corridor and Planning District 15 do not. Each such regional tax is subject to the Sunset Provision described in the following section. Only Northern Virginia and Hampton Roads have independent political subdivisions that control the regional tax receipts; the Northern Virginia counterpart to the Commission is called the Northern Virginia Transportation Authority ("NVTA"). Certain political trends may be discerned from observing the examples of the I-81 Corridor and NVTA. The new revenues being raised in the I-81 Corridor are controlled by VDOT, and no authority is being delegated to any regional independent political subdivision. With regard to NVTA, a legislative change in 2018 caused portions of the regional tax receipts in Northern Virginia to be diverted to the Washington Metropolitan Area Transit Authority, reducing available funding for a period of time, although such funding was subsequently replenished through legislative action in 2019. The policy implications of these changes may suggest that the General Assembly and VDOT are currently comfortable with the regional taxation approach to funding new, large-scale transportation projects in the Commonwealth, but that they are less comfortable continuing to delegate power and authority over such funds to local or regional bodies. More generally, the funding sources for the Commission may, over time, be subject to political scrutiny as viewpoints change or new economic or financial challenges arise, including but not limited to initiatives to reduce the use of fossil fuels, any movement to shift to mileage-based usage fees rather than fuels taxes, the burdens of long-term operating and maintenance expense, and other factors. This is particularly true given that sales taxes and fuels taxes are regressive taxes that are not necessarily allocated to entities and persons that most benefit from the expenditures derived from such taxes. As with any body that undertakes infrastructure projects that involve significant sums of money and that affect many citizens and businesses, there is a risk of political interference into the operations of the funding and operating authorities, some of which may be detrimental to noteholders or their rights under the Indenture.

Sunset Provision. Chapter 766 is a broad-based transportation initiative that provides not only for the collection and application of HRTF Revenues, but also for generating certain other additional revenues to fund transportation improvements throughout the Commonwealth. However, enactment Clause 14 of Chapter 766 declares that the provisions of Chapter 766 that generate additional revenue through state taxes or fees for transportation throughout the Commonwealth and in Planning District 23 shall expire on December 31 of any year in which the General Assembly appropriates or transfers any of such additional revenues for any non-transportation-related purpose. In other words, the appropriation of revenues

generated pursuant to Chapter 766 for a purpose other than that permitted by Chapter 766, even if the particular revenue affected is not payable to the HRTF, could result in expiration of all revenue provisions of Chapter 766 if the General Assembly does not enact any savings clause or otherwise take action to override such sunset provision. The General Assembly enacted a similar provision in 2020 Acts of Assembly, Chapter 1230 (“Chapter 1230”), in connection with the statewide restructuring of the Commonwealth’s transportation funding arrangements and which legislation changed the Additional Motor Vehicles Fuels Tax from its previous tax rate to the a consumer price index adjusted rate, subject to an annual adjustment in accordance with the consumer price index.

No assurance can be given that the General Assembly will not take action in the future that could activate the sunset provisions of Chapter 766 or Chapter 1230, and no assurance can be given that, if such activation occurs, the General Assembly will enact a savings clause or otherwise take action to override such sunset provision(s). In such event, it is possible that the rights of noteholders under the Indenture could be impaired without any recourse by either noteholders or the Commission.

TIFIA Revenue Sharing Trigger Event. The 2023 HRTF TIFIA Loan Agreement provides that, following a Revenue Sharing Trigger Event, prepayment of the 2023 HRTF TIFIA Loan will be made, on a pro rata basis with any other 2023 HRTF TIFIA Loan then outstanding, and such prepayment would be made in monthly increments under the Master Indenture after current payments are made on the Senior Bonds and Intermediate Lien Obligations of the Commission. A “Revenue Sharing Trigger Event” is defined to occur as of any date on which Subordinate Obligations issued to the TIFIA Lender are Outstanding, and both of the following exist: (a) HRTAC or VDOT, on behalf of the HRTAC, is not actively engaged in the development of capital project programs in the Hampton Roads Transportation Planning Organization’s most recently adopted long-range transportation plan, and (b) for so long as the 2021 TIFIA Toll Obligation remains Outstanding, the unencumbered amount on deposit in the General Fund (after taking into account any HRTF Transfers required to be made as of such date or within the next twelve (12 months)) is greater than \$50,000,000 after making the deposits or transfers as described in paragraphs FIRST through TENTH under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds” herein and clauses (i) through (iv) under “SECURITY FOR AND SOURCES OF PAYMENT OF THE SERIES 2023A NOTES – Flow of Funds – Application of Amounts in the General Fund” herein (in that order). If a Revenue Sharing Trigger Event occurs and obligations to TIFIA become due earlier in time than otherwise required by the 2023 HRTF TIFIA Loan Agreement, it is possible that the interests of holders of Senior Bonds and Intermediate Lien Obligations under the Indenture could be impaired either immediately or over time, particularly if termination of Commission’s active engagement in capital project programs is coupled with a reduction in the Commission’s authority or the triggering of the Sunset Provision described in the foregoing section.

Administrative Actions. HRTAC’s ability to continue to fund its projects and its ability to receive and effectively utilize HRTF Revenues depends on the continued cooperation of the CTB and VDOT. If the CTB does not cause VDOT to satisfy its obligations under its Standard Project Agreements or PAFA with HRTAC, if HRTAC does not continue to obtain funding under SMART SCALE or any successor statewide prioritization process for transportation projects, or if the CTB and the Commonwealth’s Secretary of Transportation cause transportation projects in Hampton Roads to be constructed without HRTAC’s involvement and assistance, HRTAC may not continue to effectively function as the recipient of HRTF Revenues and as a key funding source of transportation projects in Hampton Roads. If HRTAC is unable to complete needed projects, it may lose political support and thereafter lose control of HRTF Revenues, impeding HRTAC’s ability to make timely payments of debt service on the Series 2023A Notes.

In addition to the foregoing, HRTAC is entirely dependent on the Virginia Department of Taxation and other state agencies to collect and deposit in the HRTF the Additional Sales and Use Tax revenues and

the Additional Motor Vehicle Fuels Tax revenues and to timely transfer them to HRTAC. Failure or delay in this regard would also impede HRTAC's ability to make timely payments of debt service on the Series 2023A Notes.

Risk of Future Legislative or Court Decisions Affecting Tax-Exempt Obligations

Legislation affecting tax-exempt obligations is regularly considered by the United States Congress and may also be considered by the Virginia General Assembly. Court proceedings may also be filed, the outcome of which could modify the tax treatment of obligations such as the Series 2023A Notes. There can be no assurance that legislation enacted or proposed, or actions by a court, after the date of issuance of the Series 2023A Notes will not have an adverse effect on the tax status of the interest on the Series 2023A Notes or the market value or marketability of the Series 2023A Notes. These adverse effects could result, for example, from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), or repeal (or reduction in the benefit) of the exclusion of interest on the Series 2023A Notes from gross income for federal or state income tax purposes for all or certain taxpayers.

Additionally, investors in the Series 2023A Notes should be aware that future legislative actions (including federal income tax reform) may retroactively change the treatment of all or a portion of the interest on the Series 2023A Notes for federal income tax purposes for all or certain taxpayers. In all such events, the market value of the Series 2023A Notes may be affected and the ability of holders to sell their Series 2023A Notes in the secondary market may be reduced. The Series 2023A Notes are not subject to special mandatory redemption, and the interest rates on the Series 2023A Notes are not subject to adjustment, in the event of any such change in the tax treatment of interest on the Series 2023A Notes.

No Assurance of Funds Under 2023 HRTF TIFIA Loan Agreement

It is anticipated that the Series 2023A Notes will be paid at their maturity from a disbursement made to HRTAC under the 2023 HRTF TIFIA Loan Agreement. There are numerous conditions that must be satisfied by HRTAC in connection with the requisitioning of moneys under the 2023 HRTF TIFIA Loan Agreement, including certain conditions relating to third parties, such as VDOT, over which HRTAC has no control. See "2023 HRTF TIFIA LOAN AGREEMENT – Disbursement Conditions." There can be no assurances that all such conditions to disbursement will be satisfied and thus no assurances that such funds will be available under the 2023 HRTF TIFIA Loan Agreement for HRTAC to reimburse itself for eligible project costs or to pay the Series 2023A Notes. In addition, the TIFIA Lender may refuse to honor a requisition if, among other things, an event of default under the 2023 HRTF TIFIA Loan Agreement or certain other material contracts has occurred and is continuing, or if HRTAC or certain other parties are not in compliance with federal law or their obligations under certain material contracts. If HRTAC does not meet the conditions for disbursement of moneys under the 2023 HRTF TIFIA Loan Agreement, the Series 2023A Notes will need to be paid from the HRTAC Revenues, subject to the prior application of such funds to pay scheduled debt service on Senior Bonds, or from proceeds of Additional Bonds issued under the Master Indenture. No assurance can be given that HRTAC will be able to pay such debt service from the HRTAC Revenues, or access the credit markets for the issuance of Additional Bonds, in the event it cannot requisition moneys under the 2023 HRTF TIFIA Loan Agreement.

HRTF Transfers to Support Toll Financing

As described above, HRTF Revenues, to the extent available in the General Fund, are to be used to provide support for the TIFIA Series 2021 Toll Bond issued under the Master Toll Indenture. Should toll revenues under the Express Lanes Network produce less net toll revenue than is expected, HRTF Transfers

may be required under the terms of the Master Toll Indenture and the TIFIA Series Supplement. Although such HRTF Transfers are to be made from available amounts in the General Fund, to the extent of any such HRTF Transfers, there would be a corresponding decrease in amounts in the General Fund that otherwise would be available to make up deficiencies in the Debt Service Funds established under the Indenture or that would be used to make PayGo project expenditures.

Forward-Looking Statements and Forecasts

The statements contained in this Official Statement, and in other information provided by HRTAC, that are not purely historical, including statements regarding HRTAC's expectations regarding the collection and timing of future HRTF Revenues as discussed earlier in this Official Statement, are forward-looking statements. All forward-looking statements included in this Official Statement are based on information available to HRTAC as of the date hereof, and HRTAC assumes no obligation to update any such forward-looking statements, other than as set out in the Continuing Disclosure Undertaking, the form of which is attached hereto as Appendix C.

The forward-looking statements herein are based on various assumptions, forecasts and estimates that are inherently subject to numerous risks and uncertainties, including the possible invalidity of underlying assumptions, forecasts and estimates, possible changes or developments in social, economic, business, industry, market, legal and regulatory circumstances and conditions, and actions taken or not taken by third parties and legislative, judicial and other governmental authorities and officials. In addition, these assumptions, forecasts and estimates involve judgments regarding, among other things, future economic conditions, future actions by third parties and future events and decisions, all of which are difficult, if not impossible, to predict accurately. There can be no assurance that the forward-looking statements in this Official Statement will prove to be accurate.

No representation is made or intended, nor should any representation be inferred, with respect to the likely existence of any particular future set of facts or circumstances, and prospective purchasers of the Series 2023A Notes are cautioned not to place undue reliance upon any projections contained in this Official Statement. If actual results are less favorable than the results projected or if the assumptions used in preparing the projections prove to be incorrect, HRTAC's ability to make timely payment of the principal of and interest on the Series 2023A Notes may be materially and adversely affected.

Enforceability of Rights and Remedies, Including Bankruptcy Ramifications

Effects of Bankruptcy on Rights and Remedies. The rights and remedies available to the owners of the Series 2023A Notes may be subject to the provisions of the United States Bankruptcy Code (the "Bankruptcy Code"), to other bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and equitable principles that may limit enforcement of such remedies. Under existing constitutional and statutory law and judicial decisions, including specifically the Bankruptcy Code, the remedies provided in the Master Indenture may not be readily available or may be limited. No assurances can be given that a court or regulatory agency would enforce the rights or types of remedies available under the Master Indenture, including any rights and remedies with respect to the pledge of HRTF Revenues.

The various legal opinions to be delivered concurrently with the delivery of the Series 2023A Notes, including the opinion of Bond Counsel, will be qualified as to the enforceability of these rights and remedies, for example, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by principles of equity.

Bankruptcy Filing by HRTAC. Under the Bankruptcy Code and current Virginia law, the Commission may not file for bankruptcy protection under Chapter 9 of the Bankruptcy Code (“Chapter 9”) and no creditor or judgment holder of the Commission may file a Chapter 9 petition on behalf of the Commission. Pursuant to Section 109(c)(2) of the Bankruptcy Code, a political subdivision or public agency or instrumentality of a state must be specifically authorized by state law before it may file for bankruptcy protection. Currently, there is no Virginia statute that prescribes, authorizes or otherwise contains authorization for a political subdivision such as the Commission to file for Chapter 9 protection, or delegates such authority to any governmental officer or organization. There can be no assurance, however, that the Bankruptcy Code or Virginia law will not be amended in the future to permit the Commission to file for bankruptcy protection, and such a filing could, under certain circumstances, subject all or a portion of the HRTF Revenues to the jurisdiction of the bankruptcy court. Potential purchasers of the Series 2023A Notes should consult their own attorneys and advisors in assessing the risk and the likelihood of recovery in the event the Commission becomes a debtor in a bankruptcy proceeding. When an entity is in bankruptcy, its creditors (including Noteholders) may be prohibited from acting to collect from or to enforce obligations of the debtor entity without permission of the bankruptcy court; therefore, the Commission may be prevented from making payments to the Noteholders from funds in its possession. These restrictions may result in delays or reductions in payments on the Series 2023A Notes. Should the Commission become the debtor in a bankruptcy case, the holders of the Series 2023A Notes will not have a lien on HRTAC Revenues received by the Commission after the commencement of the bankruptcy case unless the bankruptcy court determines that such HRTAC Revenues constitute “Special Revenues” within the meaning of the Bankruptcy Code. “Special Revenues” are defined to include, among other things, receipts from the ownership, operation, or disposition of projects or systems that are primarily used or intended to be used primarily to provide transportation, utility or other services, as well as other revenues or receipts derived from functions of the debtor. Although the Commission believes that HRTAC Revenues should be treated as “Special Revenues,” no assurance can be given that a bankruptcy court would agree with such characterization. Further, even if the HRTAC Revenues are treated as “Special Revenues,” no assurance can be provided that a bankruptcy court would allow Noteholders to compel payments on the Series 2023A Notes from such “Special Revenues.” In any case, there could be delays or reductions in payments on the Series 2023A Notes or losses to Noteholders. Regardless of any specific adverse determinations in any bankruptcy proceeding involving the Commission, the mere existence of such a bankruptcy proceeding would have an adverse effect on the liquidity and value of the Series 2023A Notes.

Judicial Discretion. Upon a default under the Master Indenture, the remedies available to the Trustee may depend upon judicial actions that may be subject to substantial discretion and delay. Some of these remedies may in fact turn out not to be enforceable at all. The rights of the owners of the Series 2023A Notes and the enforceability of HRTAC’s obligations will be subject to the exercise of judicial discretion under a variety of circumstances. The enforceability of governmental obligations is also subject to constitutional, statutory and public policy limitations and to other considerations that do not limit enforcement of obligations of private parties.

Market Liquidity

The Series 2023A Notes constitute a new issue. No assurance can be given as to the development or liquidity of any market for the Series 2023A Notes. If an active public market does not develop, the market price and liquidity of the Series 2023A Notes may be adversely affected.

Economic Conditions Affecting the HRTF

The availability of HRTF Revenues from the HRTF is dependent on uncontrollable economic factors. The revenues received from the Additional Sales and Use Tax and the Additional Motor Vehicle

Fuels Tax tend to fluctuate significantly based on economic variables, including, but not limited to, the condition of the economies of the Member Localities in which such taxes are collected, the Commonwealth and the United States, economic growth or recessions, population growth, income and employment levels, levels of tourism, public health conditions, weather conditions, fuel prices, road conditions, and the availability of alternate modes of transportation. HRTAC's revenues and purposes may be further generally affected by those factors, as well as by trends or changes in housing and business concentrations, the opinions and sensitivities of area residents, the costs and consequences of complying with federal regulations, and unintended effects of infrastructure development on urban growth patterns. Any of these economic or social factors could have a material adverse effect upon HRTAC's revenue and capital sources, including market disruptions in the financial sector and potential effects on the cost and duration of its funded projects in addition to the tax base upon which the HRTF relies. There can be no assurance that negative impacts attributable to economic factors will not materially adversely affect the availability of revenues in the HRTF and impede the ability of HRTAC to receive transfers from the HRTF. See Appendix D.

Risk Arising from Operating and Maintenance Burdens on Commonwealth

The HRTAC Act does not permit HRTAC to include in its budget any funds to independently operate and maintain funded projects or to perform any transportation service; therefore, HRTAC has no control over the long-term impact of its spending on future obligations of the Commonwealth. This could result in future budgetary and political conditions that are difficult to predict, but may have a material adverse impact on HRTAC, the HRTF Revenues and HRTAC's ability over the long term to support debt service payments on the Senior Bonds.

Impact of Federal Budget Restraints and Federal Tax Policy

Hampton Roads has been directly affected by federal budget restraints and sequestration, given the large impact of the military and government contracts on the Hampton Roads economy. It is uncertain whether such budget restraints will be reduced or increased, or whether other industries will provide adequate economic growth to make up for any reduction in spending resulting from federal budget restraints. See "Economic Profile" in Appendix D.

To the extent that federal funds for transportation projects cease to be provided to the Commonwealth or its political subdivisions, or that the federal government reduces funding to, restricts or eliminates the TIFIA credit assistance program, HRTAC will have difficulty carrying out its funding plans. If HRTAC is unable to complete needed projects, it may lose political support and thereafter lose control of HRTF Revenues, impeding HRTAC's ability to make timely payments of debt service on the Series 2023A Notes.

Restraints under tax reform, such as limitations on the federal deduction for state and local tax payments, or limitations on the home mortgage interest deduction, could affect consumer behavior and policy priorities at the state and local level, having an adverse effect on the HRTF that cannot presently be quantified.

Infectious Disease Outbreaks

The HRTF Revenues may be adversely impacted by national or regional outbreaks of highly contagious or epidemic diseases, such as what occurred with COVID-19. Such events may affect travel, commerce, business, and financial markets globally as well as in Hampton Roads. The COVID-19

pandemic adversely impacted HRTAC and the Hampton Roads area and similar public health emergencies may do so again in the future.

Hurricanes, Flooding, Sea-Level Rise and Other Natural Risks

Planning District 23 is located in the Mid-Atlantic region of the east coast of the United States. The Mid-Atlantic region is an area that has in the past been periodically susceptible to damaging storms, storm surge, and flooding. The risk of hurricanes, tropical storms or other major weather events affecting the Member Localities and interrupting commerce and military activities within Hampton Roads is a material risk that could negatively affect the regional economy and the revenues available through the HRTF to pay debt service on the Series 2023A Notes and could directly impact or damage Commission-funded facilities. Further, storm and flooding-related risks are likely to intensify over time if scientific projections about climate change and sea-level rise are correct. In addition, the Member Localities are located within a seismic zone that has experienced earthquakes in the past 15 years, and there can be no assurance that Commission-funded projects would not be damaged in any future earthquakes.

Cybersecurity

The Commission and the Commonwealth rely on computer networks to conduct their business. Such computer networks may be vulnerable to hackers or phishing attacks, or to breaches by employee error, negligence or malfeasance. Any such attacks or breaches could compromise the Commission's and/or the Commonwealth's computer systems and the information stored thereon. Any disruption or loss of information could result in a material adverse effect on the efficiency of the Commission's and/or the Commonwealth's work. The Commission and the Commonwealth maintain a security posture designed to deter cyber-attacks, but no assurances can be given that the Commission's and/or the Commonwealth's security measures will prevent cyber-attacks, and no assurances can be given that any cyber-attacks, if successful, will not have a material adverse effect on the operations or financial condition of the Commission or the Commonwealth's collection and administration and transfers of HRTF amounts.

Fluctuations in Fuel Prices and Fuel Usage May Adversely Affect Additional Motor Vehicle Fuels Tax Revenues

The availability of Additional Motor Vehicle Fuels Tax revenue is dependent on several economic factors. The revenues received from the Additional Motor Vehicle Fuels Tax tend to fluctuate significantly based on economic variables, including, but not limited to, the condition of the economies of the Planning District 23 localities in which such tax is collected, the Commonwealth and the United States, economic growth or recessions, population growth, trends or changes in housing and business concentrations, income and employment levels, tele-commuting, levels of tourism, weather conditions, fuel prices, road conditions, geopolitical events, and the availability of alternate modes of transportation. There can be no assurance that negative impacts attributable to economic factors will not materially adversely affect the availability of Additional Motor Vehicle Fuels Tax and impede the ability of HRTAC to make timely payments on the Series 2023A Notes.

General Assembly May Enact Exemptions to and Holidays from Taxes

The Additional Sales and Use Tax applies to the same transactions and items that are subject to the statewide retail sales and use tax levied by the Commonwealth. In the past, the General Assembly has made changes to the transactions and items subject to the statewide retail sales and use tax. For example, in 1990, the General Assembly enacted legislation to exempt from the statewide retail sales and use tax all nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or

prevention of disease in human beings. There can be no assurance that further exemptions will not be granted.

In the past, the General Assembly has established certain sales tax holidays. A “sales tax holiday” is a temporary period during which purchases of certain items are exempt from retail sales and use taxes. Following legislation enacted by the 2007 session of the General Assembly and through July 1, 2023, the Commonwealth had three annual sales tax holidays. During a seven-day period in May of each year, purchases of items designated by the Virginia Department of Taxation as hurricane preparedness equipment, including portable generators, were exempt from the statewide sales tax. Portable generators must have been priced at \$1,000 or less, and other eligible items must have been priced at \$60 or less for each item. During a three-day period in August of each year, purchases of certain school supplies, clothing and footwear were exempt from the statewide sales tax. Each eligible school supply item must have been priced at \$20 or less, and each eligible article of clothing and footwear must have been priced at \$100 or less. During a four-day period in October of each year, purchases of products meeting the Energy Star and WaterSense qualifications, such as certain energy-efficient appliances, were exempt from the statewide sales tax. Eligible products must have been priced at \$2,500 or less for each item, and have been purchased for noncommercial home or personal use. Although the prior provision for sales tax holidays expired on July 1, 2023, the 2023 Virginia General Assembly, pursuant to Chapter [____], 2023 Va. Acts of Assembly, provided the sales tax holidays shall remain in effect through July 1, 2025, with the calendar year 2023 holidays to occur on a three-day period in October 2023.

Each such exemption and holiday affects the application of the Additional Sales and Use Tax that benefits the HRTF. In the future, the General Assembly could further change the transactions and items upon which either the general or additional tax is imposed or add or remove sales tax holidays. The Additional Sales and Use tax revenues available to the HRTF could increase or decrease depending on the nature of the change.

In addition to sales tax exemptions and holidays, it is possible that the General Assembly could consider exemptions and holidays applicable to state and/or regional fuels taxes. The Additional Motor Vehicle Fuels Tax could be affected by any such proposals, which could lead to a material adverse effect on the Commission’s revenues.

Tax Revenues Could Be Eroded by Changes to Planning District 23

The sources of taxable transactions generating revenues for the HRTF from the Additional Sales and Use Tax and the Additional Motor Vehicle Fuels Tax are limited geographically to Planning District 23. The mix of localities within Planning District 23, which currently include Isle of Wight, James City, Southampton, York, Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg, could be altered by administrative action of DHCD. Any such change could have a material adverse effect on the composition of the tax base for the Additional Sales and Use Tax and the Additional Motor Vehicle Fuels Tax, which could erode the revenues available to pay debt service on the Series 2023A Notes.

No Right to Accelerate Debt Service

The Master Indenture does not permit the Trustee or Owners, upon the occurrence of an Event of Default under the Master Indenture or for any other reason, to accelerate the maturity of any Bonds, including the Series 2023A Notes, or the payment of principal of and interest due thereon. Owners will be able to collect principal and interest that become due after an Event of Default only from the HRTAC

Revenues and any other funds pledged under the Master Indenture and only when such principal and interest are scheduled to be paid.

No Mortgage or Other Liens

Payment of the principal of and interest on the Series 2023A Notes is not secured by any deed of trust, mortgage or other lien on any of the Initial Financed Projects, the HRBT Expansion Project, the HRELN Project, any equipment or other tangible personal property of HRTAC or VDOT, or any property of the Member Localities.

Limitation on Remedies

The remedies available to the Owners upon a default under the Master Indenture are in many respects dependent upon judicial action, which is often subject to discretion and delay under existing constitutional and statutory law and judicial decisions, including specifically Title 11 of the Bankruptcy Code. Although political subdivisions of the Commonwealth, including the Commission, are not currently authorized to seek relief under the provisions of Chapter 9 of the Federal Bankruptcy Code, the various legal opinions to be delivered concurrently with delivery of the Series 2023A Notes will be qualified as to enforceability of the various legal instruments by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of credits generally, now or hereafter in effect; to usual equity principles which shall limit the specific enforcement under laws of the Commonwealth as to certain remedies; to the exercise by the United States of America of the powers delegated to it by the United States Constitution; and to the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the Commonwealth and its governmental bodies, in the interest of serving an important public purpose.

No Redemption of Bonds in the Event of Taxability

The Series 2023A Notes are not subject to redemption prior to maturity upon the occurrence of an event which has the effect of rendering interest on the Series 2023A Notes includable in the gross income of the owners of the Series 2023A Notes for purposes of federal income taxation. No provision is made in the Master Indenture for any increase or other adjustment in the rate of interest payable on the Series 2023A Notes in the event of such an occurrence.

CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the Series 2023A Notes will be subject to the approving opinion of Kaufman & Canoles, a Professional Corporation, Richmond, Virginia, Bond Counsel, which will be furnished at the expense of the Commission upon delivery of the Series 2023A Notes, in substantially the form set forth as Appendix F (the “Bond Opinion”). The Bond Opinion will be limited to matters relating to authorization and validity of the Series 2023A Notes and to the tax status of interest thereon as described in the section “TAX MATTERS.” Bond Counsel has not been engaged to investigate the financial resources of the Commission or its ability to provide for payment of principal of, interest, or premium, if any, on the Series 2023A Notes, and the Bond Opinion will make no statement as to such matters or as to the accuracy or completeness of this Official Statement or any other information that may have been relied on by anyone in making the decision to purchase Bonds.

Certain legal matters will be passed upon for HRTAC by Willcox & Savage, P.C., Norfolk, Virginia, its general counsel, and Kaufman & Canoles, a Professional Corporation, Richmond, Virginia, as disclosure counsel, and for the Underwriters by their counsel, Butler Snow LLP, Richmond, Virginia.

TAX MATTERS

Opinion of Bond Counsel

In the opinion of Bond Counsel, under current law, interest on the Series 2023A Notes (a) is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Tax Code”), and (b) is not a specific item of tax preference for purposes of the federal alternative minimum tax; however, such interest is included in the “adjusted financial statement income” (as defined in Section 56A of the Tax Code) of certain corporations in determining the applicability and amount of the federal corporate alternative minimum tax imposed under Section 55(b) of the Tax Code. Interest on the Series 2023A Notes is exempt from income taxation by the Commonwealth. No other opinion is expressed by Bond Counsel regarding the tax consequences of the ownership of or the receipt or accrual of interest on the Series 2023A Notes.

The Bond Opinion will be given in reliance upon certifications by representatives of the Commission as to certain facts relevant to both the opinion and requirements of the Tax Code, and applicable regulations thereunder. The Bond Opinion is subject to the condition that there is compliance subsequent to the issuance of the Series 2023A Notes with all requirements of the Tax Code that must be satisfied in order for interest thereon to remain excludable from gross income for federal income tax purposes. The Commission has covenanted to comply with the current provisions of the Tax Code regarding, among other matters, the use, expenditure and investment of the proceeds of the Series 2023A Notes and the timely payment to the United States of any arbitrage rebate amounts with respect to the Series 2023A Notes. Failure by the Commission to comply with such covenants, among other things, could cause interest on the Series 2023A Notes to be included in gross income for federal income tax purposes retroactively to their date of issue.

Original Issue Discount

The Series 2023A Notes that have an original yield above their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the “OID Bonds”), are being sold at an original issue discount. The difference between the initial public offering prices of such OID Bonds and their stated amounts to be paid at maturity constitutes original issue discount treated in the same manner for federal income tax purposes as interest, as described above.

The amount of original issue discount that is treated as having accrued with respect to a OID Bond is added to the cost basis of the owner of the bond in determining, for federal income tax purposes, gain or loss upon disposition of such OID Bond (including its sale, redemption or payment at maturity). Amounts received on disposition of such OID Bond that are attributable to accrued original issue discount will be treated as tax-exempt interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual OID Bond, on days that are determined by reference to the maturity date of such OID Bond. The amount treated as original issue discount on such OID Bond for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such OID Bond (determined by compounding at the close of each accrual period) and (ii) the amount that would have

been the tax basis of such OID Bond at the beginning of the particular accrual period if held by the original purchaser, (b) less the amount of any interest payable for such OID Bond during the accrual period. The tax basis for purposes of the preceding sentence is determined by adding to the initial public offering price on such OID Bond the sum of the amounts that have been treated as original issue discount for such purposes during all prior periods. If such OID Bond is sold between semiannual compounding dates, original issue discount that would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Owners of OID Bonds should consult their tax advisors with respect to the determination and treatment of original issue discount accrued as of any date and with respect to the state and local tax consequences of owning a OID Bond. Subsequent purchasers of OID Bonds that purchase such bonds for a price that is higher or lower than the “adjusted issue price” of the bonds at the time of purchase should consult their tax advisors as to the effect on the accrual of original issue discount.

Original Issue Premium

The Series 2023A Notes that have an original yield below their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the “Premium Bonds”), are being sold at a premium. An amount equal to the excess of the issue price of a Premium Bond over its stated redemption price at maturity constitutes premium on such Premium Bond. A purchaser of a Premium Bond must amortize any premium over such Premium Bond’s term using constant yield principles, based on the purchaser’s yield to maturity (or, in the case of Premium Bonds callable prior to their maturity, generally by amortizing the premium to the call date, based on the purchaser’s yield to the call date and giving effect to any call premium). As premium is amortized, the amount of the amortization offsets a corresponding amount of interest for the period, and the purchaser’s basis in such Premium Bond is reduced by a corresponding amount resulting in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Bond prior to its maturity. Even though the purchaser’s basis may be reduced, no federal income tax deduction is allowed.

Purchasers of the Premium Bonds should consult their tax advisors with respect to the determination and treatment of premium for federal income tax purposes and with respect to the state and local tax consequences of owning a Premium Bond.

Other Tax Matters

Prospective purchasers of the Series 2023A Notes should be aware that the ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including without limitation financial institutions, property and casualty insurance companies, S corporations, foreign corporations subject to the branch profits tax, recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations. Prospective purchasers of the Series 2023A Notes should consult their tax advisors as to the applicability and impact of such consequences.

In addition, prospective purchasers should be aware that interest paid on, and the proceeds of the sale of, tax-exempt obligations, including the Series 2023A Notes, are in many cases subject to information reporting in a manner similar to interest paid on taxable obligations. While this reporting requirement does not by itself affect the excludability of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Tax-Exempt Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (i) are not “exempt recipients,” and (ii) fail to provide certain identifying information (such as the beneficial owner’s taxpayer

identification number) in the required manner or have been identified by the Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner's federal income tax liability provided the required information is timely furnished to the Service.

The Internal Revenue Service (the "Service") has a program to audit state and local government obligations to determine, as applicable, whether the interest thereon is includible in gross income for federal income tax purposes. If the Service does audit the Series 2023A Notes, under current Service procedures, the Service will treat the Commission as the taxpayer and the owners of the Series 2023A Notes will have only limited rights, if any, to participate.

Prospective purchasers of the Series 2023A Notes should consult their own tax advisors as to the status of interest on the Series 2023A Notes under the tax laws of any state other than the Commonwealth.

The Bond Opinion represents Bond Counsel's legal judgment based in part upon the representations and covenants referenced therein and its review of existing law, but are not a guarantee of results or binding on the Service or the courts. Bond Counsel assumes no duty to update or supplement its opinion to reflect any facts or circumstances that may come to Bond Counsel's attention after the date of its opinion or to reflect any changes in law or the interpretation thereof that may occur or become effective after such date.

Future Events and Legislative and Regulatory Actions

There are many events that could affect the value and liquidity or marketability of the Series 2023A Notes after their issuance, including but not limited to public knowledge of an audit of the Series 2023A Notes by the Service, a general change in interest rates for comparable securities, a change in federal or state income tax rates, legislative or regulatory proposals affecting state and local government securities and changes in judicial interpretation of existing law. Legislation affecting tax-exempt obligations is regularly considered by the U.S. Congress and various state legislatures. Such legislation may effect changes in federal or state income tax rates and the application of federal or state income tax laws (including the substitution of another type of tax), or may repeal or reduce the benefit of the excludability of interest on the tax-exempt obligations from gross income for federal or state income tax purposes.

The U.S. Treasury Department and the IRS are continuously drafting regulations to interpret and apply the provisions of the Tax Code and court proceedings may be filed the outcome of which could modify the federal or state tax treatment of tax-exempt obligations.

There can be no assurance that legislation proposed or enacted after the date of issue of the Series 2023A Notes, regulatory interpretation of the Tax Code or actions by a court involving either the Series 2023A Notes or other tax-exempt obligations will not have an adverse effect on the Series 2023A Notes' federal or state tax status, marketability or market price or on the economic value of the tax-exempt status of the interest on the Series 2023A Notes. Neither the Bond Opinion nor this Official Statement purports to address the likelihood or effect of any such future events or legislative and regulatory actions, and purchasers of the Series 2023A Notes should seek advice concerning such matters as they deem prudent in connection with their purchase of Series 2023A Notes.

LITIGATION

There is no litigation of any kind now pending or, to the best of its information, knowledge and belief, threatened against the Commission to restrain or enjoin the issuance or delivery of the Series 2023A Notes or the collection and application of HRTAC Revenues under the Master Indenture, or in any manner contesting or affecting the validity of the Series 2023A Notes, any proceeding of HRTAC taken with respect to their issuance, authentication or sale, or any appropriation of funds to pay debt service on the Series 2023A Notes.

RATINGS

Moody's Investor Service ("Moody's") and S&P Global Ratings ("S&P") have given the Series 2023A Notes the ratings of "___" and "___," respectively. The Commission requested that the Series 2023A Notes be rated and furnished certain information to Moody's and S&P, including certain information that may not be included in this Official Statement.

Reference should be made to the individual rating agency for a more complete description of the meaning of the rating assigned by such rating agency. These ratings are not a recommendation to buy, sell or hold the Series 2023A Notes. The ratings are subject to review and change or withdrawal at any time if, in the judgment of the respective rating agency, circumstances so warrant. There is no assurance that any such ratings will continue for any period of time or that any such rating will not be revised or withdrawn. A downward revision or withdrawal of a rating may have an adverse effect on the market price of the Series 2023A Notes.

FINANCIAL STATEMENTS

The audited financial statements of the Commission for the Fiscal Year ended June 30, 2023 are included in Appendix B. The Commission's financial statements are prepared in accordance with generally accepted accounting principles and audited annually in accordance with government auditing standards. The Commission's independent auditor, PBMares, LLP, has not been engaged to perform and has not performed since the date of its report included in Appendix B any procedures on the financial statements addressed in that report. Such auditor also has not performed any procedures relating to this Official Statement.

FINANCIAL ADVISOR

The Commission has retained PFM Financial Advisors LLC, Orlando, Florida, as financial advisor (the "Financial Advisor") in connection with the issuance of the Series 2023A Notes. Although the Financial Advisor assisted in the review of this Official Statement, the Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Financial Advisor is a financial advisory, investment management and consulting organization and is not engaged in the business of underwriting municipal securities.

RELATIONSHIP OF PARTIES

Kaufman & Canoles, a Professional Corporation, Richmond, Virginia, Bond Counsel, from time to time represents one or more of the Underwriters or the Trustee in matters unrelated to the Series 2023A Notes or one or more of the Member Localities in matters unrelated to HRTAC. Butler Snow LLP, counsel to the Underwriters, from time to time represents the Trustee in matters unrelated to the Series 2023A Notes or one or more of the Member Localities in matters unrelated to HRTAC.

UNDERWRITING

The Series 2023A Notes are being purchased by the Underwriters pursuant to a Bond Purchase Agreement (the “Bond Purchase Agreement”) between HRTAC and Wells Fargo Bank, N.A., as representative of the Underwriters (collectively, the “Underwriters”). The Bond Purchase Agreement sets forth the obligation of the Underwriters to purchase the Series 2023A Notes at an aggregate purchase price of \$_____ (representing the sum of the \$_____ par amount of the Series 2023A Notes, [plus] [less] original issue [premium] [discount] of \$_____, less an underwriting discount of \$_____ on such Series 2023A Notes) and is subject to certain terms and conditions, including the approval of certain legal matters by counsel. The Bond Purchase Agreement provides that the Underwriters will purchase all of the Series 2023A Notes if any are purchased. The Underwriters may offer and sell the Series 2023A Notes to certain dealers (including dealers depositing the Series 2023A Notes into investment trusts) and others at prices different from the public offering prices stated on the cover page of this Official Statement. The public offering prices may be changed from time to time at the discretion of the Underwriters.

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. In the course of their various business activities, the Underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively traded securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the Commission (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the Commission. The Underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

Wells Fargo Securities is the trade name for certain securities-related capital markets and investment banking services of Wells Fargo & Company and its subsidiaries, including Wells Fargo Bank, National Association (“WFBNA”), which conducts its municipal securities sales, trading and underwriting operations through the Wells Fargo Bank, NA Municipal Finance Group, a separately identifiable department of WFBNA, registered with the Securities and Exchange Commission as a municipal securities dealer pursuant to Section 15B(a) of the Securities Exchange Act of 1934.

WFBNA, acting through its Municipal Finance Group, one of the underwriters of the Series 2022A Bonds, has entered into an agreement (the “WFA Distribution Agreement”) with its affiliate, Wells Fargo Clearing Services, LLC (which uses the trade name “Wells Fargo Advisors”) (“WFA”), for the distribution of certain municipal securities offerings, including the Series 2022A Bonds. Pursuant to the WFA

Distribution Agreement, WFBNA will share a portion of its underwriting compensation with respect to the Series 2022A Bonds with WFA. WFBNA has also entered into an agreement (the “WFSLLC Distribution Agreement”) with its affiliate Wells Fargo Securities, LLC (“WFSLLC”), for the distribution of municipal securities offerings, including the Series 2022A Bonds. Pursuant to the WFSLLC Distribution Agreement, WFBNA pays a portion of WFSLLC’s expenses based on its municipal securities transactions. WFBNA, WFSLLC, and WFA are each wholly-owned subsidiaries of Wells Fargo & Company.

[Insert additional Underwriter disclosure as appropriate for underwriting group.]

CONTINUING DISCLOSURE

To assist the underwriters in complying with the provisions of Securities and Exchange Commission Rule 15c2-12, as amended (the “Rule”), promulgated by the Securities and Exchange Commission, HRTAC will execute a Continuing Disclosure Undertaking (the “Disclosure Undertaking”) at closing pursuant to which the Commission will agree to provide certain annual financial information and material event notices required by the Rule. Such information will be filed through EMMA maintained by the Municipal Securities Rulemaking Board and may be accessed through the Internet at emma.mrsb.org. As described in Appendix C, the Disclosure Undertaking requires the Commission to provide only limited information at specific times, and the information provided may not be all the information necessary to value the Series 2023A Notes at any particular time. The Commission may from time to time disclose certain information and data in addition to that required by the Disclosure Undertaking. If the Commission chooses to provide any additional information, the Commission will have no obligation to continue to update such information or to include it in any future disclosure filing.

[There have been no instances in the previous five years in which the Commission has failed to comply, in all material respects, with any of its previous continuing disclosure undertakings.]

Failure by the Commission to comply with the Disclosure Undertaking is not an event of default under the Series 2023A Notes or the Master Indenture. The sole remedy for a default under the Disclosure Undertaking is to bring an action for specific performance of the Commission’s covenants thereunder, and no assurance can be provided as to the outcome of any such proceeding.

APPROVAL OF PRELIMINARY OFFICIAL STATEMENT

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not representations of fact. No representation is made that any of the estimates will be realized. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the holder of the Series 2023A Notes.

The attached Appendices are an integral part of this Official Statement and must be read together with the balance of this Preliminary Official Statement.

The distribution of this Preliminary Official Statement has been duly authorized by the Commission. For purposes of compliance with the Rule, this Preliminary Official Statement constitutes an official statement of the Commission that has been deemed final by the Commission as of its date except for the omission of certain pricing and other information as permitted by the Rule.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Chair

APPENDIX A

DEFINITIONS AND SUMMARIES OF THE MASTER INDENTURE AND THE 2023A SERIES SUPPLEMENT

DEFINITIONS AND SUMMARIES OF THE MASTER INDENTURE AND THE 2023A SERIES SUPPLEMENT

Set forth below are definitions of certain terms contained in the Master Indenture or the 2023A Series Supplement, followed by summaries of certain provisions of the Master Indenture and the 2023A Series Supplement. The descriptions do not purport to be comprehensive or definitive and are qualified in their entirety by reference to the Master Indenture and the 2023A Series Supplement, copies of which can be obtained from HRTAC or the Trustee. The headings below have been added for ease of reference only.

DEFINITIONS OF CERTAIN TERMS

In addition to the terms previously defined in this Official Statement, the following words used in this Appendix A will have the following meanings unless a different meaning clearly appears from the context:

“2023A Bond Debt Service Fund” means the Bond Debt Service Fund Related to the Series 2023A Notes established pursuant to the Master Indenture and the 2023A Series Supplement.

“2023A Cost of Issuance Fund” means the Cost of Issuance Fund Related to the Series 2023A Notes established pursuant to the Master Indenture and the 2023A Series Supplement.

“2023A Notes” means the Series of Intermediate Lien Obligations authorized to be issued under the 2023A Series Supplement.

“2023A Project Fund” means the Project Fund Related to the Series 2023A Notes established pursuant to the Master Indenture and the 2023A Series Supplement.

“2023A Rebate Fund” means the Rebate Fund Related to the Series 2023A Notes established pursuant to the Master Indenture and the 2023A Series Supplement.

“2023A Series Supplement” or “Tenth Series Supplement” means the Tenth Supplemental Series Indenture of Trust dated as of _____ 1, 2023, between HRTAC and the Trustee, being a Series Supplement with respect to the Series 2023A Notes pursuant to the provisions of the Master Indenture.

“2023A Tax Regulatory Agreement” means the Tax Certificate and Regulatory Agreement made by HRTAC for the benefit of the Trustee and the Owners of the Series 2023A Notes.

“Account” means any account established in a Fund with respect to a Related Series of Bonds or otherwise pursuant to the terms of the Master Indenture or any Supplemental Indenture.

“Accreted Amount” means with respect to Capital Appreciation Bonds of any Series, the amount set forth in the Related Series Supplement as the amount representing the initial public offering price plus the accreted and compounded interest on such Bonds as of any point in time.

“Agency Obligations” means senior debt obligations of U.S. government-sponsored agencies, corporations, and enterprises that are not backed by the full faith and credit of the U.S. government, including, but not limited to, Federal Home Loan Mortgage Corporation debt obligations, Farm Credit System consolidated system wide bonds and notes, Federal Home Loan Banks consolidated debt obligations, Federal National Mortgage Association debt obligations, Student Loan Marketing Association debt obligations, Tennessee Valley Authority debt obligations, Resolution Funding Corporation debt obligations (including principal and interest strips), and U.S. Agency for International Development guaranteed notes (including stripped securities).

“Amortization Requirement” as applied to any Term Bonds of any maturity for any Bond Year, means the principal amount or amounts fixed by, or computed in accordance with the terms of, the Related Series Supplement

for the retirement of such Term Bonds by mandatory purchase or redemption on the Principal Payment Date or Dates established by such Related Series Supplement.

“Annual Budget” means the administrative and operating expense budget of HRTAC for any Fiscal Year as adopted by HRTAC in accordance with the HRTAC Act, as such budget may be amended from time to time throughout such Fiscal Year.

“Assumed Debt Service” means for any Fiscal Year the aggregate amount of principal and interest that would be payable on all Bonds if each Excluded Principal Payment were amortized on a substantially level debt service basis or other amortization schedule provided by HRTAC for a period commencing on the date of calculation of such Assumed Debt Service and ending on the earlier of (i) the date specified by HRTAC or (ii) 30 years from the date of calculation, such Assumed Debt Service to be calculated on a level debt service basis or other amortization schedule provided by HRTAC, based on a fixed interest rate equal to the rate at which HRTAC could borrow for such period, as expressed in an Officer’s Certificate (which shall be based upon the opinion of HRTAC’s financial advisor or of a third party consultant reasonably acceptable to the Trustee).

“Bankruptcy Law” means Title 11 of the United States Code, as it is amended from time to time and any successor to or replacement of such Title and any other applicable federal or state bankruptcy, insolvency or other similar law.

“Bond” or **“Bonds”** means any or all of the bonds that HRTAC may issue under the Virginia Code and pursuant to Article V of the Master Indenture, including any Senior Bonds, any Intermediate Lien Obligations, or any Subordinate Obligations.

“Bond Counsel” means (i) Kaufman & Canoles, a Professional Corporation, or (ii) other counsel selected by HRTAC which is nationally recognized as experienced in matters relating to obligations issued or incurred by states and their political subdivisions.

“Bond Credit Facility” means a line of credit, letter of credit, standby bond purchase agreement, municipal bond insurance or similar credit enhancement or liquidity facility established to provide credit or liquidity support for all or any portion of a Series of Bonds as provided in the Related Series Supplement.

“Bond Credit Provider” means, as to all or any portion of a Series of Bonds, the Person providing a Bond Credit Facility, as designated in the Related Series Supplement in respect of such Series of Bonds.

“Bond Year” means each twelve month period beginning on July 1 and ending on June 30, or such other twelve-month period as may be selected by the Commission and approved by Bond Counsel with respect to any Series of Bonds.

“Business Day” means any day on which commercial banking institutions generally are open for business in New York and the Commonwealth.

“Capital Appreciation Bonds” means a Series of Bonds the interest on which is compounded and accumulated at the rates and on the dates set forth in the Related Series Supplement and is payable upon redemption or on the maturity date of such Series of Bonds.

“Commonwealth” means the Commonwealth of Virginia.

“Convertible Capital Appreciation Bonds” means a Series of Capital Appreciation Bonds having a conversion date after which such Bonds become Current Interest Bonds.

“Cost of Issuance Fund” means the Cost of Issuance Fund established with respect to a Series of Bonds as provided in the Master Indenture.

“Current Interest Bonds” means a Series of Bonds the interest on which is payable currently on the Interest Payment Dates provided therefor in the Related Series Supplement.

“Custodian” means a bank or trust company that is (i) organized and existing under the laws of the United States or any of its states and (ii) selected by HRTAC and reasonably acceptable to the Trustee.

“Debt Service Fund” means a Senior Debt Service Fund, an Intermediate Lien Debt Service Fund, and/or a Subordinate Debt Service Fund established with respect to any Series of Bonds issued under the Master Indenture.

“Debt Service Reserve Fund” means, as the context requires, a Senior Debt Service Reserve Fund, an Intermediate Lien Debt Service Reserve Fund, and/or a Subordinate Debt Service Reserve Fund established with respect to any Series of Bonds issued under the Master Indenture.

“Defeasance Obligations” means noncallable (i) Agency Obligations, (ii) Government Obligations, (iii) Government Certificates, (iv) Defeased Municipal Obligations, and (v) Defeased Municipal Obligation Certificates.

“Defeased Municipal Obligation Certificates” means evidence of ownership of a proportionate interest in specified Defeased Municipal Obligations, which Defeased Municipal Obligations are held by a Custodian.

“Defeased Municipal Obligations” means obligations of the Commonwealth or any county, city, town, district, authority, agency, political subdivision or other public body of the Commonwealth that are rated in the highest rating category by any Rating Agency and provision for the payment of the principal of and redemption premium, if any, and interest on which has been made by the deposit with a trustee or escrow agent of Government Obligations or Government Certificates, the maturing principal of and interest on which, when due and payable, will along with any cash held by the trustee or escrow agent provide sufficient money to pay the principal of and redemption premium, if any, and interest on such obligations.

“DSRF Credit Facility” means a letter of credit, surety bond or similar credit enhancement facility acquired by HRTAC, from a financial institution (including, without limitation, any bank, trust company, insurance company, or broker-dealer) with a long term credit rating at the time of issuance of such facility in the third highest rating category or higher by any Rating Agency, to substitute for cash or investments required to be held in a Debt Service Reserve Fund for any Series of Bonds pursuant to the Related Series Supplement.

“DSRF Credit Provider” means the financial institution providing, and qualified under the definition of, a DSRF Credit Facility.

“Escrow Fund” means an escrow fund relating to a Series of Refunding Bonds that may be established pursuant to the Related Series Supplement and the Master Indenture.

“Event of Default” means any of the events enumerated in the subsection “Events of Default and Remedies Upon Default” below.

“Excess Revenues” means, following the occurrence of a Revenue Sharing Trigger Event and until such time as the Revenue Sharing Trigger Event ends, an amount in each month equal to 50% of the HRTAC Revenues -- remaining each month after the transfers described in paragraphs FIRST through TENTH under the heading “Revenue Fund and Flow of Funds – Revenue Fund” in this Appendix and paragraphs FIRST through FOURTH under the heading “Revenue Fund and Flow of Funds – General Fund” in this Appendix (in that order) have occurred.

“Excluded Interest Payment” means each payment of interest on obligations that HRTAC has specified in a Related Series Supplement or in an Officer’s Certificate to be payable from or secured by funds or revenues that do not constitute HRTAC Revenues, which may include, without limitation, (i) Toll Revenues, (ii) any grants from the Commonwealth or federal government, or any agency or instrumentality thereof, that have not been designated as HRTAC Revenues, or (iii) any other funds that have not been designated as HRTAC Revenues.

“Excluded Principal Payment” means each payment of Principal on obligations that HRTAC has specified in a Related Series Supplement or in an Officer’s Certificate to be payable from or secured by funds or revenues that do not constitute HRTAC Revenues, which may include, without limitation, (i) Toll Revenues, (ii) any grants from the Commonwealth or federal government, or any agency or instrumentality thereof, that have not been designated as HRTAC Revenues, (iii) any proceeds of anticipated future borrowings, or (iv) any other funds that have not been designated as HRTAC Revenues.

“Fiscal Year” means the twelve-month period commencing on July 1 of one year and ending on June 30 of the following year.

“Fund” means any fund established pursuant to the terms of the Master Indenture or any Supplemental Indenture.

“GAAP” means generally accepted accounting principles, existing from time to time, as applicable to state and local governmental units.

“General Fund” means the General Fund established pursuant to the Master Indenture.

“Government Certificates” means certificates representing an ownership interest in United States Treasury bond principal at maturity or interest coupons for accrued periods, which bonds or coupons are held in the capacity of custodian by a Custodian that is independent of the seller of such certificates.

“Government Obligations” means direct obligations of, or obligations the payment of the principal of and interest on which is guaranteed by, the United States of America.

“Hedge Agreement” means, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, forward payment conversion agreement, or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors, collars, or caps, options, puts, or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate, or other financial risk; and (v) any other type of contract or arrangement that HRTAC determines is to be used, or is intended to be used, to manage or reduce the cost of any Bonds, to convert any element of any Bonds from one form to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.

“Hedge Payments” means amounts payable by HRTAC pursuant to any Hedge Agreement, other than termination payments, fees, expenses, and indemnity payments.

“Hedge Period” means the period during which a Hedge Agreement is in effect and has not been terminated.

“Hedge Receipts” means amounts payable by any Swap Provider pursuant to a related Hedge Agreement, other than termination payments, fees, expenses, and indemnity payments.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks (as defined in the TIFIA Loan Agreements) by HRTAC upon the early termination of all or a portion of the Hedging Agreements (as defined in the 2023 HRTF TIFIA Loan Agreement), net of all amounts payable to HRTAC by such Hedging Banks upon the early unwind of all or a portion of such Hedging Agreements. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“HRTAC” or **“Commission”** means the Hampton Roads Transportation Accountability Commission, a body politic and a political subdivision of the Commonwealth.

“HRTAC Act” means Chapter 26, Title 33.2 of the Virginia Code, as the same may be amended from time to time, and any successor statutes.

“HRTAC Representative” means (i) the Chair or Vice Chair of HRTAC, and (ii) any other commissioner, officer or employee of HRTAC authorized by resolution of HRTAC to perform the act or sign the document in question.

“HRTAC Revenues” means, in any period, (i) all of the HRTF Revenues received by HRTAC during such period, (ii) all earnings from the investment of moneys held in any Fund or Account that is pledged to the payment of any Bonds issued under the Master Indenture (other than any Rebate Fund or any Fund or Account that is established to hold the proceeds of a drawing on a Bond Credit Facility), and (iii) any and all other revenues available under the HRTAC Act that have been designated as HRTAC Revenues pursuant to a Supplemental Indenture, but shall not include Toll Revenues.

“HRTF” means the Hampton Roads Transportation Fund established pursuant to Section 33.2-2600 of the HRTAC Act.

“HRTF Revenues” means the revenues dedicated to the HRTF from the additional sales and use tax revenues described in Section 58.1-638.H.2 of the Virginia Code and the additional wholesale motor vehicle fuels sales tax revenues described in Section 58.1-2295.A.2 of the Virginia Code, together with any other funds that may be hereafter appropriated to the HRTF.

“Initial Resolution” means the resolution numbered 2016-08 and entitled “Resolution Authorizing Hampton Roads Transportation Fund Revenue Bonds,” adopted by HRTAC on June 16, 2016, as supplemented by the resolution numbered 2017-08 adopted by HRTAC on December 14, 2017.

“Interest Payment Date” means any January 1 or July 1, as the case may be, or such other date or dates provided with respect to any Bond as may be designated in a Related Series Supplement.

“Interest Requirement” for any Interest Payment Date, as applied to all of the Current Interest Bonds or a portion thereof, means the total of the interest regularly scheduled to become due on such Bonds on such Interest Payment Date, subject to Section 5.4 (Modification of Certain Definitions) of the Master Indenture. Interest expense shall be excluded from the definition of Interest Requirement to the extent that (i) they constitute Excluded Interest Payments, or (ii) proceeds of any Bonds or other funds (including, without limitation, applicable Debt Service Funds and Debt Service Reserve Funds) are held by the Trustee, or are reasonably expected to be obtained from investment earnings thereon, to pay such interest. Unless HRTAC shall otherwise provide in a Supplemental Indenture, interest expense on Bond Credit Facilities drawn upon to purchase but not to retire Bonds, to the extent such interest exceeds the interest otherwise payable on such Bonds, shall not be included in the determination of an Interest Requirement.

“Intermediate Lien Debt Service Fund” means a Debt Service Fund established with respect to a Series of Intermediate Lien Obligations pursuant to the Master Indenture.

“Intermediate Lien Debt Service Reserve Fund” means a Debt Service Reserve Fund established with respect to one or more Series of Intermediate Lien Obligations pursuant to the Master Indenture.

“Intermediate Lien Debt Service Reserve Requirement” means an amount, required to be maintained in an Intermediate Lien Debt Service Reserve Fund established by the Series Supplement for any Intermediate Lien Obligations; provided, however, (1) to the extent specified in a Related Series Supplement or in an Officer’s Certificate in connection with the issuance of any additional Series of Intermediate Lien Obligations or any calculation of the Intermediate Lien Debt Service Reserve Requirement, HRTAC may hold any Intermediate Lien Debt Service Reserve Fund collectively with respect to all or multiple Series of Intermediate Lien Obligations; and (2) if any Intermediate Lien Debt Service Reserve Fund held collectively with respect to all or multiple Series of Intermediate Lien Obligations is determined as of the beginning of any Fiscal Year to be in an amount greater than the amount that would be derived by measuring the Intermediate Lien Debt Service Reserve Requirement separately for each Outstanding

Series of Intermediate Lien Obligations, then such lesser derived amount shall be the Intermediate Lien Debt Service Reserve Requirement for such Fiscal Year.

“Intermediate Lien Obligations” means any Bonds issued under the Master Indenture and designated as being subordinate as to payment and security to the Senior Bonds but senior as to payment and security to the Subordinate Obligations.

“Majority Owners” means the Owners of greater than 50% of the aggregate principal amount of the Senior Bonds Outstanding.

“Master Indenture” means the Master Indenture of Trust dated as of February 1, 2018, between HRTAC and the Trustee, as the same may be modified, altered, amended and supplemented in accordance with its terms by one or more Series Supplements and other Supplemental Indentures.

“Member Localities” means, collectively, each county and city located in Planning District 23, established pursuant to Chapter 42, Title 15.2, of the Virginia Code, currently consisting of the Counties of Isle of Wight, James City, Southampton and York, and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg, and any other localities that may hereafter be added to HRTAC by amendment to the Virginia Code.

“Officer’s Certificate” means a certificate signed by an HRTAC Representative and filed with the Trustee, upon which the Trustee may conclusively rely.

“Operating Expenses” means any expenditure made or to be made by HRTAC that is properly categorized as an “expense” under GAAP, including, without limitation, the administrative expenses of HRTAC, but shall exclude expenses related to the payment of debt service on any Bonds, capital expenditures for Projects, or expenses for the operation or maintenance of any Project.

“Operating Fund” means the Operating Fund established pursuant to the Master Indenture, in which there is established an Operating Account and an Operating Reserve Account.

“Operating Reserve Requirement” means an amount not to exceed 110% of the aggregate amount of Operating Expense provided for in the Annual Budget in effect as of the applicable measurement date.

“Opinion” or **“Opinion of Counsel”** means a written opinion of any attorney or firm of attorneys, who or which may be Bond Counsel or counsel for HRTAC or the Trustee.

“Optional Tender Bonds” means any Series of Bonds issued under the Master Indenture a feature of which is an option on the part of the Owners of such Bonds to tender to HRTAC, or to the Trustee, any Paying Agent or other fiduciary for such Owners, or to an agent of any of the foregoing, all or a portion of such Bonds for payment or purchase.

“Outstanding” when used in reference to the Bonds and as of a particular date, means all Bonds issued, authenticated and delivered under the Master Indenture except:

- (a) Any Bond canceled or required to be canceled by the Trustee at or before such date;
- (b) Any Bond in lieu of or in substitution for which another Bond shall have been issued, authenticated and delivered under the Master Indenture;
- (c) Any Bond deemed paid under Article XII of the Master Indenture except that any such Bond shall be considered Outstanding until its maturity or redemption date only for the purpose of actually being paid and for purposes of Articles III and IV and Section 6.1 of the Master Indenture (or the corresponding provisions of the Related Series Supplement, as the case may be); and

(d) Any Bond not deemed Outstanding under, but only to the extent provided for in, Section 15.2 of the Master Indenture.

“Owner” means the registered owner of any Bond.

“Paying Agent” means any national banking association, state bank, bank and trust company or trust company appointed by HRTAC to fulfill the duties of a “paying agent” for the Bonds or any portion thereof as commonly understood in the municipal bond market and meeting the qualifications of, and subject to the obligations of, the Trustee in the Master Indenture. Unless otherwise provided in a Supplemental Indenture, the Trustee shall be the Paying Agent.

“Payment Date” means a date that is an Interest Payment Date or a Principal Payment Date or both.

“Person” means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof.

“Pledged Revenues” means the HRTAC Revenues and all other property of any kind mortgaged, pledged or hypothecated to provide for the payment of or to secure the Bonds by HRTAC or by anyone on its behalf and with its written consent at any time as and for additional security under the Master Indenture and the Series Supplements.

“Principal” or **“principal”** means (i) with respect to a Capital Appreciation Bond, the Accreted Amount thereof (the difference between the stated amount to be paid at maturity and the Accreted Amount being deemed unpaid interest) except when used in connection with the authorization and issuance of Bonds and with the order of priority of payments of Bonds after an Event of Default in which case “principal” means the initial public offering price of the Capital Appreciation Bond (the difference between the Accreted Amount and the initial public offering price being deemed interest) and (ii) with respect to the principal amount of any Current Interest Bond, the principal amount of such Bond payable in satisfaction of an Amortization Requirement, if applicable, or at maturity.

“Principal and Interest Requirements” for any Payment Date or for any period means the sum of the Principal Requirements and the Interest Requirements for such date or such period, respectively.

“Principal Payment Date” means any July 1 upon which the principal amount of any Bond is stated to mature or upon which the principal of any Term Bond is subject to redemption in satisfaction of an Amortization Requirement, or such other date or dates with respect to any Bond as may be provided by a Related Series Supplement.

“Principal Requirement” means for any Principal Payment Date, as applied to all Bonds or a portion thereof, the total of the principal regularly scheduled to become due on such Principal Payment Date, subject to Section 5.4 (Modification of Certain Definitions) of the Master Indenture. Principal payments shall be excluded from the definition of Principal Requirement to the extent that (i) they constitute Excluded Principal Payments, or (ii) proceeds of any Bonds or other funds are held by the Trustee to pay such Principal.

“Project” means any transportation facility or project that HRTAC may finance or refinance pursuant to the Virginia Code.

“Project Fund” means the Project Fund to be established with respect to a Series of Bonds as provided in the Master Indenture.

“Purchase Price” means the purchase price established in any Series Supplement for Optional Tender Bonds as the purchase price to be paid for such Bonds upon an optional or mandatory tender of all or a portion of such Bonds.

“Rating Agency” means, with respect to any Bonds Outstanding, any nationally recognized credit rating agency if and for so long as such rating agency, at the request of HRTAC, maintains a rating on such Bonds.

“Rating Confirmation” means written evidence that no rating that has been requested by HRTAC and is then in effect from a Rating Agency with respect to a Series of Bonds will be withdrawn, reduced, or suspended solely as a result of an action to be taken under the Master Indenture.

“Rebate Amount” means the liability of HRTAC under Section 148 of the Tax Code (including any “yield reduction payments”) with respect to any Series of Bonds as may be calculated or specified (including with such reserves or error margin as HRTAC may deem appropriate) in accordance with a Related Series Supplement, a Related Tax Regulatory Agreement, or an Officer’s Certificate.

“Rebate Fund” means the Rebate Fund to be established with respect to a Series of Bonds as provided in the Master Indenture.

“Refunding Bonds” shall have the meaning set forth in the subsection “Issuance of Bonds” below.

“Reimbursement Accounts” means any Reimbursement Account that may be established within a Related Debt Service Fund by a Related Series Supplement and pursuant to Section 7.2 of the Master Indenture.

“Reimbursement Obligations” means any reimbursement obligations of HRTAC for principal and interest drawings on any Bond Credit Facility or DSRF Credit Facility with respect to which moneys in a Debt Service Fund, or Reimbursement Account thereof, are pledged or payable pursuant to the provisions of the Master Indenture or any Series Supplement.

“Related” means (i) when used with respect to any Fund, Account or Series of Bonds, the Fund, Account or Series of Bonds so authorized, designated and established by the Master Indenture and the Series Supplement authorizing a particular Series of Bonds, (ii) when used with respect to a Series Supplement, Tax Regulatory Agreement or other document contemplated hereunder, such document authorizing or related to a particular Series of Bonds, or Supplemental Indenture related thereto and (iii) when used with respect to a Bond Credit Facility, DSRF Credit Facility or Reimbursement Obligation, the Bond Credit Facility or DSRF Credit Facility securing a particular Series of Bonds and the Reimbursement Obligation entered into in connection therewith.

“Reserve Determination Date” means (i) the tenth day after each Interest Payment Date, or, if such day is not a Business Day, on the first Business Day thereafter or (ii) any other date set forth in a Series Supplement or an Officer’s Certificate for the valuation of a Debt Service Reserve Fund.

“Reserve Requirement” means, as the context requires, the Senior Debt Service Reserve Requirement, the Intermediate Lien Debt Service Reserve Requirement, and/or the Subordinate Debt Service Reserve Requirement.

“Revenue Fund” means the Revenue Fund established pursuant to the Master Indenture.

“Revenue Sharing Trigger Event” means any date on which Subordinate Obligations issued to the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, are outstanding and both of the following exist: (a) HRTAC or VDOT, on behalf of the HRTAC, is not actively engaged in the development of capital project programs in the Hampton Roads Transportation Planning Organization’s most recently adopted long-range transportation plan, and (b) for so long as the 2021 TIFIA Toll Obligation remains Outstanding, the unencumbered amount on deposit in the General Fund (after taking into account any HRTF Transfers required to be made as of such date or within the next twelve (12 months)) is greater than \$50,000,000 after making the deposits or transfers described in paragraphs FIRST through TENTH under the heading “Revenue Fund and Flow of Funds – Revenue Fund” in this Appendix and paragraphs FIRST through FOURTH under the heading “Revenue Fund and Flow of Funds – General Fund” in this Appendix (in that order) .

“Senior Bonds” means any Bonds issued under the Master Indenture with seniority of payment and security to the Intermediate Lien Obligations and the Subordinate Obligations.

“Senior Debt Service Fund” means a Debt Service Fund established with respect to a Series of Senior Bonds pursuant to the Master Indenture.

“Senior Debt Service Reserve Fund” means a Debt Service Reserve Fund established with respect to one or more Series of Senior Bonds pursuant to the Master Indenture.

“Senior Debt Service Reserve Requirement” means an amount, required to be maintained in a Senior Debt Service Reserve Fund established by the Series Supplement for any Series of Senior Bonds; provided, however, (1) to the extent specified in a Related Series Supplement or in an Officer’s Certificate in connection with the issuance of any additional Series of Senior Bonds or any calculation of the Senior Debt Service Reserve Requirement, HRTAC may hold any Senior Debt Service Reserve Fund collectively with respect to all or multiple Series of Senior Bonds; and (2) if any Senior Debt Service Reserve Fund held collectively with respect to all or multiple Series of Senior Bonds is determined as of the beginning of any Fiscal Year to be in an amount greater than the amount that would be derived by measuring the Senior Debt Service Reserve Requirement separately for each Outstanding Series of Senior Bonds, then such lesser derived amount shall be the Senior Debt Service Reserve Requirement for such Fiscal Year.

“Serial Bonds” means the Bonds of a Series that are stated to mature in semiannual or annual installments as designated in the Related Series Supplement.

“Series” means all of the Bonds of a particular series issued, authenticated and delivered pursuant to the Master Indenture and the Related Series Supplement and identified as such pursuant to such Series Supplement, and any Bonds of such Series thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Master Indenture and such Series Supplement, regardless of variations in priority of payment, lien status, maturity, interest rate, sinking fund installments or other provisions.

“Series Supplement” means a Supplemental Indenture providing for the issuance of a Series of Bonds, as such Series Supplement may be modified, altered, amended and supplemented by a Supplemental Indenture in accordance with the provisions of the Master Indenture.

“SIFMA” means the Securities Industry and Financial Markets Association and its successors.

“SIFMA Swap Index” means, on any determination date, the rate calculated, on the basis of the seven day high grade market index comprised of tax exempt variable rate demand obligation reset rates, by Bloomberg (or successor organizations) and published or made available by SIFMA or any Person acting in cooperation with or under the sponsorship of SIFMA as the SIFMA Municipal Swap Index on such date.

“Subordinate Debt Service Fund” means a Debt Service Fund established with respect to a Series of Subordinate Obligations pursuant to the Master Indenture.

“Subordinate Debt Service Reserve Fund” means a Debt Service Reserve Fund established with respect to one or more Series of Subordinate Obligations pursuant to the Master Indenture.

“Subordinate Debt Service Reserve Requirement” means an amount, required to be maintained in a Subordinate Debt Service Reserve Fund established by the Series Supplement for any Subordinate Obligations; provided, however, (1) to the extent specified in a Related Series Supplement or in an Officer’s Certificate in connection with the issuance of any additional Series of Subordinate Obligations or any calculation of the Subordinate Debt Service Reserve Requirement, HRTAC may hold any Subordinate Debt Service Reserve Fund collectively with respect to all or multiple Series of Subordinate Obligations; and (2) if any Subordinate Debt Service Reserve Fund held collectively with respect to all or multiple Series of Subordinate Obligations is determined as of the beginning of any Fiscal Year to be in an amount greater than the amount that would be derived by measuring the Subordinate Debt Service Reserve Requirement separately for each Outstanding Series of Subordinate Obligations as of such date, then such lesser derived amount shall be the Subordinate Debt Service Reserve Requirement for such Fiscal Year.

“Subordinate Obligations” means any Bonds that are made specifically subordinate as to payment and security to the Senior Bonds and the Intermediate Lien Obligations.

“Supplemental Indenture” means any indenture supplementary to or amendatory of the Master Indenture or any Supplemental Indenture or Series Supplement now or hereafter duly executed and delivered in accordance with the provisions of the Master Indenture, including a Series Supplement.

“Swap Provider” means, with respect to a Hedge Agreement, the Person that is identified in such agreement as the counterparty to, or contracting party with, HRTAC.

“Swap Related Bonds” means all or any portion of Bonds with respect to which HRTAC has entered into a Hedge Agreement identified as relating to such Bonds, whether or not such Hedge Agreement constitutes a “qualified hedge” under the Tax Code.

“Tax Code” means the Internal Revenue Code of 1986, as amended, as in effect upon the issuance of and thereafter applicable to any Series of Bonds and the regulations of the U.S. Department of the Treasury promulgated thereunder as in effect upon the issuance of and thereafter applicable to any Series of Bonds.

“Tax Regulatory Agreement” means, with respect to any Series of Bonds, the Tax Certificate and Regulatory Agreement, dated the date of the issuance of such Series of Bonds, entered into by HRTAC for the benefit of the Owners of the Bonds of such Series, as the same may be modified, altered, amended or supplemented pursuant to its terms.

“Term Bonds” means all or some of the Bonds of a Series, other than Serial Bonds, that shall be stated to mature on one or more dates and that are so designated in the Related Series Supplement.

“TIFIA Revenue Sharing Account” means the account by that name established in the Subordinate Debt Service Fund with respect to the 2023 HRTF TIFIA Loan and any Additional TIFIA Loans (as defined in the 2023 HRTF TIFIA Loan Agreement) of HRTAC secured by HRTAC Revenues as provided in Section 5.1(b) of the Second Series Supplement.

“Toll Revenues” means revenues received from tolls established for the use of any transportation facility located in one or more of the Member Localities.

“Trustee” means Wilmington Trust, National Association, and its successors serving in the same capacity under the Master Indenture.

“Variable Rate Bonds” means any Series of Bonds the interest rate on which is not established, at the time such Bonds are issued, at a single numerical rate for the entire term of such Bonds.

“Verification Agent” means (i) a firm of nationally-recognized independent certified public accountants or (ii) any other qualified firm acceptable to HRTAC and the Trustee.

“Virginia Code” means the Code of Virginia of 1950, as amended.

THE MASTER INDENTURE

Establishment of Trust

Security for Bonds. In order to provide for the payment of the principal of and the premium, if any, and interest on the Bonds issued hereunder, and to secure the performance of all of the obligations of HRTAC with respect to the Bonds, this Master Indenture and the Series Supplements, subject to the terms hereof and thereof, HRTAC pledges and grants to the Trustee:

- (a) All of the HRTAC Revenues; and
- (b) The Revenue Fund; and

(c) All other property of any kind mortgaged, pledged or hypothecated to provide for the payment of or to secure the Bonds by HRTAC or by anyone on its behalf and with its written consent at any time as and for additional security under this Master Indenture and the Series Supplements in favor of the Trustee, which is authorized to receive all such property at any time and to hold and apply it subject to the terms of this Master Indenture and the Series Supplements.

In order to provide for the payment of the principal of and the premium, if any, and interest on each Series of Bonds issued hereunder, and to secure the performance of all of the obligations of HRTAC with respect to such Series, the Master Indenture, and the Related Series Supplement, subject to the terms thereof, HRTAC pledges and grants to the Trustee with respect to such Series (and to such Series only) the money and investments held in the Related Project Fund (if any), Related Debt Service Fund, and Related Debt Service Reserve Fund (if any).

Bond Credit Facility. Any Bond Credit Facility that is given to secure some, but not all, of the Bonds, together with money drawn or paid under it, will be held by the Trustee solely as security for such Bonds of the Series to which such Bond Credit Facility is Related. Neither such Bond Credit Facility nor any money drawn or paid under it will secure the payment of any other Series of the Bonds. The status of the Bond Credit Facility as a Senior Bond, an Intermediate Lien Obligation, a Subordinate Obligation or otherwise will be provided for in the Related Series Supplement.

Issuance of Bonds

In General. HRTAC may issue Bonds, subject to the terms and conditions contained in the Master Indenture, for any purpose permitted to be financed from the proceeds of Bonds under the HRTAC Act or other law, including without limitation the construction and acquisition of any Project and the refunding of any Bonds previously issued and Outstanding. Such Bonds may be issued in any form permitted by law, including, but not limited to, Current Interest Bonds, Variable Rate Bonds, Capital Appreciation Bonds, Optional Tender Bonds, Serial Bonds or Term Bonds or any combination thereof.

HRTAC shall not issue or incur any Bonds that will be secured by a pledge of revenues, money or property pledged by the Master Indenture to the payment of any Series of Bonds, except for Senior Bonds, Intermediate Lien Obligations and Subordinate Obligations.

Subject to the restrictions described in the previous paragraph, HRTAC reserves the right in its sole discretion and without the consent of the Trustee or any Owner of any Bond to issue from time to time Bonds for any lawful purpose authorized by the HRTAC Act.

Parity of Bonds. The Master Indenture constitutes a continuing irrevocable pledge of the HRTAC Revenues and other revenues, money and property of HRTAC pledged as described in the subsection “Establishment of Trust” above to secure payment of the principal of and premium, if any, and interest on all Bonds which may, from time to time, be executed, authenticated and delivered under the Master Indenture. Except as otherwise described herein, all Bonds shall in all respects be equally and ratably secured under the Master Indenture without preference, priority or distinction on account of the time of their authentication, delivery or maturity, so that all such Bonds at any time outstanding under the Master Indenture will have the same right, lien and preference under the Master Indenture with respect to the pledge described in the subsection “Establishment of Trust” above with like effect as if they had all been executed, authenticated and delivered simultaneously. Nothing in the Master Indenture will be construed, however, as (i) requiring that any Bonds bear interest at the same rate or in the same manner as any other Bonds, have the same or an earlier or later maturity, have the same Principal or Interest Payment Dates as other Bonds, be subject to mandatory or optional redemption before maturity on the same basis as any other Bonds, or precluding the creation of separate reserve funds or obtaining separate surety bonds, insurance policies or other Bond Credit Facilities or DSRF Credit Facilities for any Series of Bonds or portions thereof, (ii) prohibiting HRTAC from entering into financial arrangements, including any Bond Credit Facility or DSRF Credit Facility, designed to assure that funds will be available for the payment of certain Bonds at their maturity or tender for purchase, or (iii) prohibiting HRTAC from pledging funds or assets of HRTAC other than those pledged under the Master Indenture or any Supplemental Indenture for the benefit of any Bonds. Intermediate Lien Obligations shall in all respects be junior and subordinate to the Senior Bonds, but senior to the Subordinate Obligations. Subordinate Obligations shall in all respects be junior and subordinate to the Senior Bonds and the Intermediate Lien Obligations.

Conditions to the Issuance of Additional Series of Bonds. Before the issuance and authentication of any Series of Bonds by the Trustee, HRTAC shall deliver or cause to be delivered to the Trustee:

- (a) In the case of the initial Series of Bonds issued under the Master Indenture only:
 - (1) An original executed counterpart of the Master Indenture;
 - (2) A certified copy of the Initial Resolution, which authorized the execution and delivery of the Master Indenture; and
 - (3) An Opinion or Opinions of Counsel, subject to customary exceptions and qualifications, to the effect that the Master Indenture has been duly authorized, executed and delivered by HRTAC;
- (b) An original executed counterpart of the Related Series Supplement which may include provisions (i) authorizing the issuance, fixing the principal amount and setting forth the details of the Bonds of the Series then to be issued, the interest rate or rates and the manner in which the Bonds are to bear interest, the Principal and Interest Payment Dates of the Bonds, the purposes for which the Bonds are being issued, the date and the manner of numbering the Bonds, the series designation, the denominations, the maturity dates and amounts, the Amortization Requirements or the manner for determining such Amortization Requirements, and any other provisions for redemption before maturity; (ii) for Bond Credit Facilities for the Series and for the Funds to be established with respect to the Series of Bonds as required or authorized under the Master Indenture; (iii) for the application of the proceeds of the Bonds of the Series; (iv) any term or condition necessary or expedient for the issuance of Bonds constituting Variable Rate Bonds or Optional Tender Bonds, including without limitation, tender and remarketing provisions, liquidity facility provisions and provisions for establishing the variable rate and changing interest rate modes; (v) for the amount, if any, to be deposited into the Related Debt Service Reserve Fund to cause the amount held therein to equal the applicable Reserve Requirement; and (vi) for such other matters as HRTAC may deem appropriate;
- (c) A certified copy of each resolution adopted by HRTAC authorizing the execution and delivery of the Related Series Supplement, any Related Bond Credit Facility and any Related Reimbursement Obligation and the issuance, sale, execution and delivery of the Series of Bonds then to be issued;
- (d) Original executed counterparts of the Related Tax Regulatory Agreement, any Related Bond Credit Facility and any Related Reimbursement Obligation;
- (e) Except for the initial Series of Bonds to be issued under the Master Indenture and for any Series of Refunding Bonds, an Officer's Certificate (subject to the requirements of Section 5.4 (Modification of Certain Definitions) of the Master Indenture, as applicable) to the effect that during any twelve consecutive months of the eighteen months preceding the issuance of the Series of Bonds to be issued the HRTAC Revenues were not less than 2.00 times the maximum annual Principal and Interest Requirements during the current or any future Fiscal Year on the Senior Bonds Outstanding plus the Series of Senior Bonds to be issued; and to the extent that the Series of Bonds to be issued consists of or includes Intermediate Lien Obligations or Subordinate Obligations, HRTAC shall also provide in such Officer's Certificate evidence of compliance with any minimum ratio of HRTAC Revenues to Principal and Interest Requirements on Intermediate Lien Obligations and/or Subordinate Obligations as may be established by any Series Supplement;
- (f) If the Bonds of the Series then to be issued are to be issued to refund Bonds issued and outstanding under the Master Indenture ("Refunding Bonds") evidence satisfactory to the Trustee that (i) the refunding produces present value debt service savings, and (ii) HRTAC has made provision for the payment or redemption of all of the Bonds to be refunded as required by the Master Indenture and the Related Series Supplement and for the payment of the estimated expenses of HRTAC and the Trustee incident to the refunding, including, if applicable, the fees of the Verification Agent and the escrow agent for the Related Escrow Fund;
- (g) An Opinion of Bond Counsel to the effect that (i) the Bonds of the Series then to be issued have been duly authorized, (ii) all conditions precedent to the issuance of such Bonds have been fulfilled, (iii) the

Related Series Supplement has been duly authorized, executed and delivered by HRTAC and complies in all respects with the requirements of the Master Indenture and (iv) Bonds are valid and legally binding limited obligations of HRTAC and are secured by the Master Indenture and the Related Series Supplement to the extent provided herein and therein;

(h) An Officer's Certificate, dated the date of delivery of the Bonds of the Series then to be issued, to the effect that to the best of the knowledge of the signatory, upon and immediately following such delivery, no Event of Default under the Master Indenture or any Series Supplement with respect to any Series of Bonds Outstanding will have occurred and be continuing;

(i) A written order and authorization to the Trustee on behalf of HRTAC, signed by an HRTAC Representative, to authenticate and deliver the Bonds of the Series then to be issued to or upon the order of the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price (including accrued interest, if any) of such Series of Bonds; and

(j) Any additional document or instrument specified in the Related Series Supplement.

Modification of Certain Definitions.

(a) In the case of the following described types of Bonds, the definition of the term "Principal and Interest Requirements" for the purposes of preparing and delivering the Officer's Certificate regarding the coverage of HRTAC Revenues described above shall be modified as follows:

(1) Optional Tender Bonds. (i) If any of the Outstanding Bonds or additional Bonds of the Series then to be issued constitute Optional Tender Bonds, then the options of the Owners of such Bonds to tender the same for payment prior to their stated maturity or maturities shall be disregarded and Principal and Interest Requirements shall be calculated based on Assumed Debt Service, (ii) if such Bonds also constitute Variable Rate Bonds, HRTAC shall also make the adjustments described in the next paragraph, and (iii) any obligation HRTAC may have, other than its obligation on such additional Bonds (which need not be uniform as to all Owners thereof), to reimburse any Person for its having extended a Bond Credit Facility shall be disregarded and Principal and Interest Requirements shall be calculated based on Assumed Debt Service.

(2) Variable Rate Bonds.

(i) Tax-Exempt. If any of the Outstanding Bonds or Bonds of the Series then to be issued constitute Variable Rate Bonds the interest on which is or will be excluded from gross income for federal income tax purposes, then the interest rate used in the above-described computations shall be assumed to equal the average of the SIFMA Swap Index for the five years preceding such date of calculation, or such other rate as shall be specified in a Related Series Supplement or in an Officer's Certificate in connection with the issuance of any additional Series of Bonds or any calculation of the Reserve Requirement].

(ii) Taxable. If any of the Outstanding Bonds or Bonds of the Series then to be issued constitute Variable Rate Bonds the interest on which is or will be included in gross income for federal income tax purposes, then the interest rate used in the above-described computations shall be assumed to equal the average for the five years preceding such date of calculation of such rate as shall be specified in a Related Series Supplement or in an Officer's Certificate in connection with the issuance of any additional Series of Bonds or any calculation of the Reserve Requirement.

(3) Swap Related Bonds. If any of the Outstanding Bonds or Bonds of the Series then to be issued constitute Swap Related Bonds, then the Interest Requirements on such Swap Related Bonds during any Hedge Period and, for so long as the Swap Provider has not defaulted on its payment obligations under the related Hedge Agreement, shall be calculated by adding (i) the amount of interest payable by HRTAC on such Swap Related Bonds pursuant to their terms, subject to paragraphs (a)(1) and (2) as applicable, and (ii) the amount of Hedge Payments payable by HRTAC pursuant to the Hedge Agreement and subtracting (iii) the amount of Hedge Receipts payable by the Swap Provider to HRTAC pursuant to the Hedge Agreement; provided, however, that if the Swap

Provider is in default under the related Hedge Agreement, the Interest Requirements on such Swap Related Bonds shall be the interest calculated as if such Hedge Agreement had not been executed. In determining the amount of Hedge Payments or Hedge Receipts that are not fixed throughout the Hedge Period (i.e., which are variable), payable or receivable for any future period, such Hedge Payments or Hedge Receipts for any period of calculation (the “Determination Period”) shall be computed by assuming that the variables comprising the calculation applicable to the Determination Period are equal to the higher of (1) such variables in effect as of the date of calculation and (2) the average of the actual variables that were in effect (weighted according to the length of the period during which each such variable was in effect) for the most recent 12-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a 12-month period).

(b) The conversion of Bonds constituting Variable Rate Bonds to bear interest at fixed rate or rates or vice-versa, in accordance with their terms, shall not constitute a new issuance of Bonds under the Master Indenture.

(c) With respect to any Bonds bearing interest that is subject to a federal interest subsidy the proceeds of which are not otherwise designated as HRTAC Revenues, the interest rate on such Bonds shall be assumed to be the rate net of such interest subsidy.

Intermediate Lien Obligations. Nothing in the Master Indenture shall prohibit or prevent HRTAC from authorizing and issuing Intermediate Lien Obligations for any lawful purpose payable from HRTAC Revenues subject and subordinate to the payment of any Senior Bonds and to the deposits required to be made from HRTAC Revenues to the Senior Debt Service Funds and the Senior Debt Service Reserve Funds, or any other Fund or Account established to secure any Senior Bonds, or from securing any Intermediate Lien Obligations and their payment by a lien and pledge of HRTAC Revenues junior and inferior to the lien on and pledge thereof for the payment and security of the Senior Bonds.

Subordinate Obligations. Nothing in the Master Indenture shall prohibit or prevent HRTAC from authorizing and issuing Subordinate Obligations for any lawful purpose payable from HRTAC Revenues subject and subordinate to the payment of any Senior Bonds and Intermediate Lien Obligations and to the deposits required to be made from HRTAC Revenues to Senior and Intermediate Lien Debt Service Funds and Senior and Intermediate Lien Debt Service Reserve Funds, or any other Fund or Account established to secure any Senior Bonds or Intermediate Lien Obligations, or from securing any Subordinate Obligations and their payment by a lien and pledge of HRTAC Revenues junior and inferior to the lien on and pledge thereof for the payment and security of the Senior Bonds and the Intermediate Lien Obligations.

Establishment of Funds and Accounts

Permanent Funds. The Funds listed below have been established under the Master Indenture with respect to all of the Outstanding Bonds issued under or in accordance with the Master Indenture and HRTAC’s operations, and HRTAC will hold each such Fund without commingling the monies held therein.

- (a) Revenue Fund;
- (b) Operating Fund, in which there is established an Operating Account and an Operating Reserve Account; and
- (c) General Fund.

Series-Specific Funds. The Funds listed below will be established with respect to each separate Series of Bonds in the Related Series Supplement, and the Trustee shall hold such Funds without commingling the monies held therein, except that (i) HRTAC has the option not to establish a Debt Service Reserve Fund for a Series of Bonds, (ii) HRTAC has the option to establish a Debt Service Reserve Fund securing multiple Series of Bonds on a parity basis, and (iii) HRTAC shall hold each Cost of Issuance Fund.

- (a) Cost of Issuance Fund;

- (b) Project Fund and/or Escrow Fund, as appropriate;
- (c) Debt Service Fund;
- (d) Debt Service Reserve Fund; and
- (e) Rebate Fund.

HRTAC may direct that a Debt Service Fund and/or Debt Service Reserve Fund established for a Series of Bonds will also provide for the payment of and/or secure any Refunding Bonds issued to refund such Series of Bonds in whole or in part.

Certain Special Funds.

(a) HRTAC may establish with the Trustee or an escrow agent satisfactory to the Trustee in connection with the issuance of any Series of Refunding Bonds, an Escrow Fund to provide for the application and investment of the portion of the proceeds of such Series to be used to refund the refunded Bonds. Such Escrow Fund shall be established under or in accordance with the Related Series Supplement.

(b) HRTAC may establish with the Trustee in connection with the incurrence of any Reimbursement Obligation, a Reimbursement Account in any Related Debt Service Fund. Amounts held for the credit of any such Reimbursement Account shall be paid out by the Trustee as necessary to enable HRTAC to meet its obligations constituting Reimbursement Obligations.

Revenue Fund and Flow of Funds

Revenue Fund. HRTAC will hold the Revenue Fund as a separate Fund. HRTAC will deposit into the Revenue Fund all HRTAC Revenues, including any HRTF Revenues transferred from the HRTF, immediately upon receipt.

At least once each month, not later than the last Business Day of each month, HRTAC shall make transfers from the Revenue Fund in the amounts and in the order of priority set forth below:

FIRST: To each Senior Debt Service Fund ratably, the amount, if any, required under the Related Series Supplement so that the balance therein on the next Payment Date shall equal the amount of principal, if any, and interest due on the next Payment Date on the Related Series of Bonds; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Senior Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SECOND: To each Senior Debt Service Reserve Fund, ratably, the amount, if any, required so that the balance in each such Fund shall be equal to the respective Senior Debt Service Reserve Requirement;

THIRD: To each Intermediate Lien Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Intermediate Lien Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in an Intermediate Lien Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

FOURTH: To each Intermediate Lien Debt Service Reserve Fund, ratably, the amount, if any, so that the balance in such Fund shall be equal to the respective Intermediate Lien Debt Service Reserve Requirement;

FIFTH: To each Subordinate Debt Service Fund, ratably, the amount, if any, required so that the balance in each such Fund shall equal the amount of principal, if any, and interest due on the Related Subordinate Obligations on the next ensuing payment date; provided that HRTAC shall receive a credit against such transfer for the amount, if any, held in a Subordinate Debt Service Fund as capitalized interest or otherwise, together with the investment earnings thereon;

SIXTH: To each Subordinate Debt Service Reserve Fund, ratably, the amount, if any, so that the balance in such Fund shall be equal to the respective Subordinate Debt Service Reserve Requirement;

SEVENTH: To each Rebate Fund the amounts necessary to provide for the payment of any Rebate Amounts with respect to the Related Series of Bonds as confirmed in an Officer's Certificate;

EIGHTH: To the Operating Account of the Operating Fund, the amount of funds necessary to pay Operating Expenses during such period in accordance with the Annual Budget;

NINTH: To the Operating Reserve Account of the Operating Fund, the amount, if any, so that the balance in such Account shall be equal to the Operating Reserve Requirement;

TENTH: To fund any Hedging Termination Obligation in connection with a Qualified Hedge; and

ELEVENTH: To the General Fund, the balance remaining in the Revenue Fund.

In the case of Bonds of a Series secured by a Bond Credit Facility, amounts on deposit in the Revenue Fund may be transferred to the Related Debt Service Fund, or the Related Reimbursement Account thereof, or elsewhere as provided in the Related Series Supplement to reimburse the Bond Credit Provider for amounts drawn under the Bond Credit Facility to pay the principal of and premium, if any, and interest on such Bonds.

Operating Fund. HRTAC will hold the Operating Fund and the Accounts therein, as a separate Fund for the purpose of paying Operating Expenses. Neither the Operating Fund nor any amount therein is pledged to secure the Bonds. HRTAC shall pay Operating Expenses from the Operating Account as they become due and in accordance with the purposes and amounts provided in the Annual Budget. If at any time there is a deficiency in the Operating Account, HRTAC shall transfer funds from the Operating Reserve Account to cover such deficiency. In determining the balance on deposit in the Operating Account for any purpose of the Master Indenture, there shall be deducted the amount of any pending payments or transfers from the Operating Account. HRTAC may cause amounts in the Operating Fund in excess of those required by the Annual Budget to be transferred to the General Fund.

Debt Service Funds. The Trustee shall promptly deposit the following amounts in each Debt Service Fund:

- (a) The amount, if any, of the proceeds of the Related Series of Bonds required by the Related Series Supplement to be deposited in the Debt Service Fund with respect to accrued and/or capitalized interest;
- (b) All amounts received from the Revenue Fund as described above;
- (c) Any amounts required to be transferred to the Debt Service Fund from a Debt Service Reserve Fund as provided under the Master Indenture; and
- (d) Any other amounts required to be paid to the Debt Service Fund or otherwise made available for deposit therein by HRTAC, including amounts made available pursuant to the Related Series Supplement.

The Trustee shall pay out of each Debt Service Fund ratably to the Trustee or, if applicable, the Paying Agent for the Related Series of Bonds (i) on each Interest Payment Date, the amount required for the payment of interest on

such Bonds then due, (ii) on any redemption date, the amount required for the payment of accrued interest on such Bonds to be redeemed, unless the payment of such accrued interest shall be otherwise provided for, and such amounts shall be applied by the Trustee or the Paying Agent, as applicable, to such payment, and (iii) the accrued interest included in the Purchase Price of any such Bonds of the Related Series purchased for retirement pursuant to the Master Indenture.

The Trustee shall pay out of each Debt Service Fund for the Related Series of Bonds on each Principal Payment Date and redemption date for such Bonds, the amounts then required for the payment of such principal or redemption price, and such amounts shall be applied by the Trustee to such payments either itself or through the Paying Agent for such Bonds.

Whenever the amounts in a Debt Service Fund is sufficient to redeem all of the Outstanding Bonds of the Related Series and to pay interest accrued to the redemption date, the Commission will cause the Trustee to redeem all such Related Bonds on the applicable redemption date specified by the Commission. Any amounts remaining in the Related Debt Service Fund after payment in full of the principal or redemption price and interest on the Related Bonds (or provision for payment thereof) and the fees, charges and expenses related to such transaction, shall be transferred to the Revenue Fund.

Debt Service Reserve Funds. Except as specifically described below, the amount in each Debt Service Reserve Fund shall be used solely to cure deficiencies in the amount on deposit in the Related Debt Service Fund and only with respect to the Related Series of Bonds. If there are insufficient funds in the Related Bond Service Fund to pay the principal of and interest on a particular Series of Bonds when due, then the Trustee shall transfer the amount of deficiency from the amount, if any, on deposit in the Related Debt Service Reserve Fund to such Debt Service Fund.

Any interest earned from the investment of money in a Debt Service Reserve Fund shall be transferred upon receipt to the Revenue Fund and/or to the Related Rebate Fund to pay any Rebate Amounts in accordance with the Series Supplements and Tax Regulatory Agreements (as confirmed in an Officer's Certificate) to the extent that such transfer will not cause the balance in the Debt Service Reserve Fund to be less than its Reserve Requirement.

On each Reserve Determination Date, the Trustee shall determine if the balance in each of the Debt Service Reserve Funds is at least equal to the Reserve Requirement for the Related Series of Bonds. In making each such determination, investments in each Debt Service Reserve Fund shall be valued as described in the subsection "Permitted Investments and Valuation of Funds" below or as otherwise provided in the Related Series Supplement. If on any Reserve Determination Date the amount in any Debt Service Reserve Fund is less than its Reserve Requirement, the Trustee shall immediately notify HRTAC of such fact and the amount of the deficiency.

Any interest earned from the investment of money in a Debt Service Reserve Fund shall be transferred upon receipt to the Related Debt Service Fund and/or to the Related Rebate Fund to pay any Rebate Amounts in accordance with the applicable Series Supplements, Tax Regulatory Agreements and Officer's Certificates to the extent that such transfer will not cause the balance in the Debt Service Reserve Fund to be less than its Reserve Requirement. If on any Reserve Determination Date there exists a surplus in a Debt Service Reserve Fund, the Trustee shall transfer such surplus to the Related Debt Service Fund and/or to the Related Rebate Fund to pay any Rebate Amounts in accordance with the applicable Series Supplements, Tax Regulatory Agreements and Officer's Certificate; provided, however, that if on any Reserve Determination Date there exists or will exist a surplus in a Debt Service Reserve Fund as the result of the payment at maturity, redemption or defeasance under the Master Indenture of a portion of the Bonds of the Related Series on or as of such Reserve Determination Date, then the Trustee is authorized to transfer the surplus (including to an Escrow Fund for any such Bonds to be redeemed or defeased) as specified in (i) a Series Supplement (as confirmed in an Officer's Certificate) or (ii) an Officer's Certificate.

In lieu of maintaining and depositing money or securities in a Debt Service Reserve Fund, HRTAC may deposit with the Trustee a DSRF Credit Facility in an amount equal to all or a portion of the applicable Reserve Requirement. Any DSRF Credit Facility will permit the Trustee to draw or obtain under it for deposit in the Debt Service Reserve Fund amounts that, when combined with the other amounts in such Fund, are not less than the applicable Reserve Requirement.

The Trustee will make a drawing on or otherwise obtain funds under any DSRF Credit Facility before its expiration or termination (i) whenever money is required for the purposes for which Debt Service Reserve Fund money may be applied and (ii) unless such DSRF Credit Facility has been extended or a qualified replacement for it delivered to the Trustee, in the event HRTAC has not deposited immediately available funds equal to the applicable Reserve Requirement at least two Business Days preceding the expiration or termination of such DSRF Credit Facility.

If HRTAC provides the Trustee with a DSRF Credit Facility as provided above, the Trustee will transfer the corresponding amount of funds then on deposit in the applicable Debt Service Reserve Fund to HRTAC, provided HRTAC delivers to the Trustee (i) an Opinion of Bond Counsel that such transfer of funds will not adversely affect the excludability from gross income for purposes of federal income taxation of interest on any Bonds the interest on which was excludable on the date of their issuance and (ii) HRTAC covenants to comply with any directions or restrictions contained in such opinion concerning the use of such funds.

General Fund. HRTAC will hold the General Fund and, except as otherwise provided below, neither such Fund nor any moneys or investments therein shall be pledged to secure the Bonds.

HRTAC shall apply the balance in the General Fund as follows:

FIRST: To cure any deficiency in the amount required to be on deposit in any Senior Debt Service Fund, any Senior Debt Service Reserve Fund, any Intermediate Lien Debt Service Fund, any Intermediate Lien Debt Service Reserve Fund, any Subordinate Debt Service Fund, any Subordinate Debt Service Reserve Fund, any Rebate Fund, or the Operating Reserve Account, in that order;

SECOND: To make HRTF Transfers;

THIRD: To pay any Bond Credit Provider or DSRF Credit Provider any Excess Interest owed due to a drawing on any applicable Bond Credit Facility or DSRF Credit Facility or any additional interest, fees, fines or other penalties owed as a result of a default on any applicable Bond Credit Facility or DSRF Credit Facility;

FOURTH: To the payment of expenditures for capital improvements with respect to any Project;

FIFTH: For deposit into the TIFIA Revenue Sharing Account, the amount, if any, as may be required under applicable Series Supplements, in an amount equal to Excess Revenues for such month; and

SIXTH: To any other lawful purpose approved by resolution of HRTAC.

Operation of Certain Series-Specific Funds

Cost of Issuance Funds. There shall be deposited in each Cost of Issuance Fund the portion of the proceeds of the Related Series of Bonds and such other amounts as may be specified in the Related Series Supplement. HRTAC will use the amounts in each Cost of Issuance Fund to pay costs of issuance incurred in connection with the issuance of the Related Series of Bonds.

Project Funds. There will be deposited into each Project Fund such portion of the proceeds of the Related Series of Bonds and other amounts as may be specified in the Related Series Supplement. HRTAC shall use the amounts in each Project Fund to finance or refinance the Projects in accordance with the requirements of the Related Series Supplement and Tax Regulatory Agreement.

Rebate Funds. There shall be transferred to each Rebate Fund amounts to be used to pay Rebate Amounts with respect to the Related Series of Bonds to the extent, and from the sources, specified in a Related Series Supplement, a Related Tax Regulatory Agreement or an Officer's Certificate. Whenever amounts on deposit in a Rebate Fund shall be required to pay Rebate Amounts and any other obligations under Section 148 of the Tax Code in connection with a Related Series of Bonds, HRTAC shall direct the Trustee to transfer such amounts to or on behalf of HRTAC for such purpose. HRTAC may direct the Trustee to transfer any amounts on deposit in a Rebate Fund that are not needed for such purpose to the Revenue Fund and/or another Fund or Account established hereunder as may be authorized or directed in a Related Series Supplement, a Related Tax Regulatory Agreement or an Officer's Certificate.

Permitted Investments and Valuation of Funds

Permitted Investments. Subject to the provisions of any Supplemental Indenture, any amounts held in any Fund or Account established by the Master Indenture or any Supplemental Indenture may be separately invested and reinvested by the Trustee, at the request of and as directed in writing by an HRTAC Representative, in any investments that are at the time (i) legal investments for public funds of the type to be invested under Virginia law, including without limitation the Investment of Public Funds Act, Chapter 45 of Title 2.2 of the Virginia Code or any successor provision of law and the Government Non-Arbitrage Investment Act, Chapter 47 of Title 2.2 of the Virginia Code or any successor provision of law, (ii) authorized by HRTAC's Statement of Investment Policy then in effect, and (iii) structured to permit adequate liquidity to permit the purpose of such Fund or Account to be satisfied. Notwithstanding anything to the contrary contained herein, HRTAC may invest the amounts on deposit in the General Fund to the same extent as provided in Section 33.2-1525 of the Virginia Code for excess funds in the Transportation Trust Fund.

Subject to the provision of any Supplemental Indenture, all investments shall be held by or under the control of the Trustee or HRTAC, as the case may be, and while so held shall be deemed a part of the Fund or Account in which the amounts were originally held. The Trustee and HRTAC shall sell and reduce to cash a sufficient amount of investments whenever the case balance in any Fund or Account is insufficient for its purposes.

Valuation of Investments. Unless otherwise provided in a Supplemental Indenture, HRTAC or the Trustee shall value the investments in each Fund and Account established under the Master Indenture or any Supplemental Indenture and held by it or at its direction as of the last Business Day of each month; provided that, notwithstanding the foregoing, a Debt Service Reserve Fund shall be valued only on Reserve Determination Dates.

Unless otherwise provided in a Supplemental Indenture, each such investment shall be valued (i) at amortized cost if the weighted average life of all investments held in the same Fund or Account is five years or less or (ii) at its fair market value or the amortized cost thereof, whichever is lower if the weighted average life of all investments held in the same Fund or Account exceeds five years. A DSRF Credit Facility shall be valued at the amount that the Trustee is authorized to draw thereon to pay debt service on the Series of Bonds secured thereby.

Discharge and Defeasance

Discharge. If the following conditions exist:

(a) The principal of any and all of the Series of Bonds and the interest due or to become due thereon together with any redemption premium required by redemption of any of the Bonds prior to maturity shall be paid, or is caused to be paid, or is provided for as described under the heading "Defeasance" below, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the Outstanding Bonds shall have been paid and discharged in accordance with the Master Indenture, and

(b) All of the covenants, agreements, obligations, terms and conditions of HRTAC under the Master Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee all sums of money due or to become due to it as bond registrar and paying agent in accordance with the terms and provisions of the Master Indenture,

then the right, title and interest of the Trustee in the trust estate granted pursuant the Master Indenture will thereupon cease and the Trustee, on the request of and at the expense of HRTAC, shall release the Master Indenture and the trust estate and shall execute such documents to evidence such release as may be reasonably required by HRTAC and shall turn over to HRTAC, or to such other Person as may be entitled to receive the same, all balances remaining in any Funds and Accounts established hereunder except for amounts required to pay the Bonds.

Provision for Payment of Particular Bonds. If HRTAC shall pay or provide for the payment of all or part of the indebtedness on particular Bonds in any one or more of the following ways:

(a) by paying or causing to be paid the principal of and premium, if any, and interest on such Bonds, as and when the same shall become due and payable;

(b) by delivering such Bonds to the Trustee for cancellation; or

(c) by depositing with the Trustee (or an escrow agent acceptable to the Trustee), in trust, cash and/or Defeasance Obligations in such amount as will, together with the income or increment to accrue on such Defeasance Obligations (the “Defeasance Amount”), be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bonds at or before their respective maturity dates, without consideration of any reinvestment of the Defeasance Amount, as a Verification Agent will verify to the Trustee’s satisfaction;

and if HRTAC shall also pay or provide for the payment of all other sums payable hereunder by HRTAC with respect to such Bonds, and, if such Bonds are to be redeemed before their maturity, notice of such redemption shall have been given as provided in the Master indenture (or the corresponding provisions of the Related Series Supplements) or provisions satisfactory to the Trustee shall have been made for the giving of such notice, such Bonds shall cease to be entitled to any lien, benefit or security under the Master Indenture except as described below.

HRTAC may at any time surrender to the Trustee for cancellation any Bonds previously authenticated and delivered that HRTAC may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired as described above.

Upon such defeasance all rights of HRTAC, including its right to provide for optional redemption of such Bonds on dates other than planned pursuant to such defeasance, shall cease unless specifically retained by filing a written notification thereof with the Trustee on or prior to the date the Defeasance Amount is deposited with the Trustee or escrow agent.

When a Transportation Bond is deemed to be paid as described above, it shall no longer be secured by or entitled to the benefits of the Master Indenture, except for the purposes of any such payment (to the exclusion of all other Owners) from the Defeasance Amount and except for the provisions of payment and redemption provisions of the Master Indenture.

Events of Default and Remedies Upon Default

Events of Default. The occurrence and continuation of one or more of the following events shall constitute an Event of Default with respect to the Bonds:

(a) default in the payment of any installment of interest in respect of the any Series of Bonds as the same shall become due and payable; or

(b) default in the payment of the principal of or premium, if any, in respect of any Series of Bonds as the same shall become due and payable either at maturity, upon redemption, or otherwise; or

(c) default in the payment of any Amortization Requirement in respect of any Bond that is a Term Bond as the same shall become due and payable; or

(d) failure on the part of HRTAC duly to observe or perform any other of the covenants or agreements on the part of HRTAC contained in the Master Indenture, a Series Supplement, a Tax Regulatory Agreement or any Bond (a “Covenant Event of Default”), subject to the provisions described in the subsection “Notice of Certain Defaults; Opportunity to Cure Such Defaults” below; or

(e) appointment by a court of competent jurisdiction of a receiver for all or any substantial part of the HRTAC Revenues and the other Funds and Accounts pledged pursuant to the Master Indenture, or the filing by HRTAC of any petition for reorganization of HRTAC or rearrangement or readjustment of the obligations of HRTAC under the provisions of any applicable Bankruptcy Law.

Notwithstanding any other provision of the Master Indenture, failure to pay the principal or any Amortization Requirement of or interest on any Intermediate Lien Obligation or Subordinate Obligation will not constitute an Event of Default with respect to any of the Senior Bonds, and failure to pay the principal or

any Amortization Requirement of or interest on any Subordinate Obligation will not constitute an Event of Default with respect to any of the Intermediate Lien Obligations.

An Event of Default with respect to one Series of Bonds shall not cause an Event of Default with respect to any Series of Bonds unless such event or condition independently constitutes an Event of Default with such other Series of Bonds.

HRTAC may, pursuant to a Series Supplement, provide for a particular Series of Bonds different or additional Events of Default and remedies upon the occurrence thereof including, but not limited to, Events of Default upon the occurrence of events specified in any agreement entered into in connection with the delivery of a Bond Credit Facility; provided, however, no such Series Supplement shall provide for any acceleration of the full principal amount of any Bonds.

Remedies Upon Default. If an Event of Default occurs and is continuing, there shall be no right of acceleration with respect to any Bonds but the Trustee may, and upon the written request to the Trustee by the Majority Owners shall, subject to the indemnity requirements of the Master Indenture, protect and enforce its rights and the rights of the Owners of such Bonds by such suits, actions or proceedings to enforce payment of and receive any and all amounts due from the Commission hereunder, together with any and all costs and expenses of proceedings and collections, and to collect (but solely from HRTAC Revenues available for such purpose) in any manner provided by law, the moneys adjudged or decreed to be payable.

Without limiting the generality of the foregoing, the Commission shall not enter into any agreement, including, without limitation, a Credit Facility, continuing covenants agreement or similar direct purchase agreement, which purports to create any rights of acceleration of any Bonds; provided, however, the following shall not be considered acceleration for purposes of this paragraph: (i) termination payments under any Hedge Agreement; and (ii) term-outs of Reimbursement Obligations under Bond Credit Facilities that occur as a result of (A) mandatory tender for purchase of the Bonds or (B) revised amortization requirements and/or increased interest rates following an optional or mandatory tender for purchase of the Bonds.

Control of Remedies. Notwithstanding anything in the Master Indenture or the Supplemental Indentures to the contrary, upon the occurrence and continuation of an Event of Default, the Majority Owners will control and direct all actions of the Trustee in exercising such of the rights and powers conferred by the Master Indenture on the Trustee or the Owners.

So long as any Senior Bonds are Outstanding, no owner or holder of any Intermediate Lien Obligation or any Subordinate Obligation may exercise any remedy under the Master Indenture or any Supplemental Indenture, and so long as any Intermediate Lien Obligations are Outstanding, no owner or holder of any Subordinate Obligation may exercise any remedy under the Master Indenture or any Supplemental Indenture.

Restriction on Owners' Actions. No Owner will have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Master Indenture or any remedy under the Master Indenture or any Supplemental Indenture or the Bonds, unless (i) an Event of Default has occurred and is continuing of which the Trustee has been notified as provided in the Master Indenture, or of which it is deemed to have notice thereunder; (ii) the Majority Owners have made written request of the Trustee to institute the suit, action, proceeding or other remedy, after the right to exercise the powers or rights of action, as the case may be, has accrued, and have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted in the Master Indenture or to institute the action, suit or proceeding in its or their name; (iii) there has been offered to the Trustee security and indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred as provided in the Master Indenture; and (iv) the Trustee has not complied with the request within a reasonable time. Such notification, request and offer of indemnity are declared, at the option of the Trustee, to be conditions precedent to the execution of the trusts of the Master Indenture or for any other remedy under the Master Indenture. It is intended that no one or more Owners will have any right to affect, disturb or prejudice the security of the Master Indenture, or to enforce any right under the Master Indenture or the Bonds, except in the manner provided for in the Master Indenture, and that all proceedings at law or in equity will be instituted, had and maintained in the manner provided in the Master Indenture and for the benefit of all Owners. Nothing in the Master Indenture will affect or impair the right of the Owners generally to enforce payment of the Bonds in accordance with their terms.

Power of Trustee to Enforce. All rights of action under the Master Indenture or under any of the Bonds secured by it that are enforceable by the Trustee may be enforced without the possession of any of the Bonds, or their production at the trial or other related proceedings. Any suit, action or proceedings instituted by the Trustee may be brought in its own name, as trustee, for the equal and ratable benefit of the Owners subject to the provisions of the Master Indenture.

Waiver of Events of Default; Effect of Waiver. The Trustee will waive any Event of Default and its consequences at the written request of the Majority Owners. If any Event of Default with respect to the Bonds has been waived as provided in the Master Indenture, the Trustee will promptly give written notice of the waiver to HRTAC and by first class mail, postage prepaid, to all Owners if the Owners had previously been given notice of the Event of Default. No waiver, rescission and annulment will extend to or affect any subsequent Event of Default or impair any right, power or remedy available under the Master Indenture.

Application of Money. Any amounts received by the Trustee following an Event of Default will, after payment of the costs and expenses of the proceedings resulting in the collection of the money, the expenses, liabilities and advances incurred or made by the Trustee and the fees (whether ordinary or extraordinary) of the Trustee and expenses of HRTAC in carrying out the provisions of the Master Indenture, be deposited in an appropriate Account established and held by the Trustee and shall be applied as follows:

FIRST: To the payment of the persons entitled to it of all installments of interest then due on the Senior Bonds, in order of the maturity of the installments of such interest and, if the money available is not sufficient to pay in full any particular installment, then ratably, according to the amounts due on such installment, to the persons entitled to it, without any discrimination or privilege;

SECOND: To the payment of the persons entitled to it of the unpaid principal or Amortization Requirements of on any of the Senior Bonds which have become due (other than Senior Bonds matured or called for redemption for the payment of which money is held pursuant to the provisions of the Master Indenture), in the order of their due dates and, if the amount available is not sufficient to pay in full such Senior Bonds due on any particular date, then ratably, according to the amount of principal due on such date, to the persons entitled to it without any discrimination or privilege;

THIRD: To the payment of the persons entitled to it of all installments of interest then due on the Intermediate Lien Obligations, in order of the maturity of the installments of such interest and, if the money available is not sufficient to pay in full any particular installment, then ratably, according to the amounts due on such installment, to the persons entitled to it, without any discrimination or privilege;

FOURTH: To the payment of the persons entitled to it of the unpaid principal or Amortization Requirements of any of the Intermediate Lien Obligations that have become due (other than Intermediate Lien Obligations matured or called for redemption for the payment of which money is held pursuant to the provisions of the Master Indenture), in the order of their due dates and, if the amount available is not sufficient to pay in full such Intermediate Lien Obligations due on any particular date, then ratably, according to the amount of principal due on such date, to the persons entitled to it without any discrimination or privilege;

FIFTH: To the payment of the persons entitled to it of all installments of interest then due on the Subordinate Obligations, in order of the maturity of the installments of such interest and, if the money available is not sufficient to pay in full any particular installment, then ratably, according to the amounts due on such installment, to the persons entitled to it, without any discrimination or privilege; and

SIXTH: To the payment of the persons entitled to it of the unpaid principal or Amortization Requirements of any of the Subordinate Obligations that have become due (other than Subordinate Obligations matured or called for redemption for the payment of which money is held pursuant to the provisions of the Master Indenture), in the order of their due dates and, if the amount available is not sufficient to pay in full such Subordinate Obligations due on any particular date, then ratably, according to the amount of principal due on such date, to the persons entitled to it without any discrimination or privilege.

Whenever money is to be applied as described above, it will be applied at such times, and from time to time, as the Trustee determines, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee applies such money, it will fix the date on which payment is to be made, and interest on the amount of principal to be paid on such date will cease to accrue. The Trustee will give, in such form as it may deem appropriate, notice to the Owners of the fixing of such payment date.

Notice of Certain Defaults; Opportunity to Cure Such Defaults. Notwithstanding anything to the contrary in the Master Indenture, no Covenant Event of Default will occur until actual notice of the default is given to HRTAC by the Trustee or by the Owners of not less than 25% in aggregate principal amount of all Outstanding Bonds, and HRTAC has had (i) 30 days after receipt of the notice with respect to any default in the payment of money or (ii) 90 days after receipt of the notice of any other default to correct the default or to cause the default to be corrected; provided, however, that if the default can be corrected, but cannot within the applicable period, it will not constitute an Event of Default if corrective action is instituted by HRTAC within the applicable period and diligently pursued (as determined by the Trustee) until the default is corrected.

Rights of Bond Credit Provider. Notwithstanding anything contained in the Master Indenture to the contrary, until HRTAC has reimbursed a Bond Credit Provider for amounts paid under a Bond Credit Facility to pay the interest on or the principal of any Bonds on any Payment Date, (i) such Bonds shall be deemed to be Outstanding and such Bond Credit Provider shall succeed to the rights and interests of the Owners to the extent of the amounts paid under the Bond Credit Facility until such amounts have been reimbursed and (ii) upon presentation to the Trustee, such Bond shall be registered in the name of the Bond Credit Provider or its nominee.

Amendments and Supplemental Indentures

HRTAC and the Trustee may, without the consent of, or notice to, any of the Owners of the Bonds, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions of the Master Indenture or any Supplemental Indenture for any one or more of the following purposes:

- (a) To cure or correct any ambiguity, formal defect, omission or inconsistent provision in the Master Indenture or in a Supplemental Indenture;
- (b) To grant to or confer on the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred on the Owners or the Trustee;
- (c) To permit the appointment of a co-Trustee or additional Paying Agents under the Master Indenture;
- (d) To subject to the lien and pledge of the Master Indenture additional revenues, properties or collateral;
- (e) To provide for the issuance of coupon Bonds if authorized under the Related Supplemental Indenture;
- (f) To amend certain provisions of the Master Indenture or any Supplemental Indenture in any manner consistent with Sections 103 and 141 through 150 of the Tax Code (or such other sections of the Tax Code as may be applicable to the Bonds) as in effect at the time of the amendment;
- (g) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by the Master Indenture or any Supplemental Indenture, of the HRTAC Revenues or any other moneys, property or Funds or Accounts;
- (h) To modify, amend or supplement the Master Indenture or any Supplemental Indenture as required to permit its qualification under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, or to permit the qualification of any of the Bonds for sale under the securities laws of any of the

states of the United States, and, if HRTAC and the Trustee so determine, to add to the Master Indenture or any Supplemental Indenture such other terms, conditions and provisions as may be permitted by the Trust Indenture Act of 1939, as amended, or similar federal statute;

(i) To add to the covenants and agreements of HRTAC contained in the Master Indenture or any Supplemental Indenture other covenants and agreements thereafter to be observed for the Owners' protection, including, but not limited to, additional requirements imposed by virtue of a change of law, or to surrender or to limit any right, power or authority therein reserved to or conferred upon HRTAC;

(j) To amend, modify or change the terms of any agreements governing any book-entry-only system for any of the Bonds;

(k) In the case of Series Supplements, to provide for the issuance of additional Series of Bonds (including Refunding Bonds) and to provide for such other related matters as may be required or contemplated by or appropriate under the Master Indenture;

(l) To make any changes necessary to comply with the requirements of a Rating Agency, a Bond Credit Provider, or an DSRF Credit Provider that, as expressed in a written finding or determination by HRTAC (which shall be stated in the Related Supplemental Indenture, and may be based on an Opinion of Bond Counsel or the written opinion of HRTAC's financial advisor), would not materially adversely affect the security for the Bonds;

(m) To make any other changes that (i) will have no adverse effect upon the ratings currently assigned to the Bonds by any Rating Agency, as expressed in a Rating Confirmation or (ii) shall not prejudice in any material respect the rights of the Owners of such Bonds then Outstanding, as expressed in a written determination or finding by HRTAC (which shall be stated in the Supplemental Indenture, and may be based upon an Opinion of Bond Counsel or the written opinion of HRTAC's financial advisor); and

(n) To restate in one document the Master Indenture and all Supplemental Indentures, which restatement shall then become the Master Indenture for all purposes, effective as of the date of the Master Indenture with respect to matters set forth therein and as of the date of any Supplemental Indenture included in the restatement as to matters set forth in any such Supplemental Indenture. Supplemental Indentures and the Bonds issued thereunder prior to a restatement shall be deemed to relate to the restated Master Indenture without any further action or amendment.

Exclusive of Supplemental Indentures covered above and subject to the terms and provisions contained above, the Majority Owners shall have the right from time to time, notwithstanding any other provision of the Master Indenture, to consent to and approve the execution by HRTAC and the Trustee of such other Supplemental Indenture or Supplemental Indentures as HRTAC shall deem necessary or desirable to modify, alter, amend, add to or rescind, in any particular, any of the terms or provisions contained in the Master Indenture or in any Supplemental Indenture; provided, however, that without the consent and approval of the Owners of all of the affected Senior Bonds, Intermediate Lien Obligations or Subordinate Obligations, as applicable, then Outstanding nothing in the Master Indenture shall permit, or be construed as permitting (i) an extension of the maturity of the principal of or the interest on any such Senior Bond, Intermediate Lien Obligation or Subordinate Obligation, (ii) a reduction in the principal amount of any such Senior Bond, Intermediate Lien Obligation or Subordinate Obligation or the rate of interest on it, (iii) a privilege or priority of any such Senior Bond over any other Senior Bond, any such Intermediate Lien Obligation over any other Intermediate Lien Obligation, or any such Subordinate Obligation over any other Subordinate Obligation, or (iv) a reduction in the aggregate principal amount of Senior Bonds, Intermediate Lien Obligations or Subordinate Obligations required for consent to such Supplemental Indenture.

If at any time HRTAC shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of expressed above, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of the Supplemental Indenture to be mailed to each Owner of Bonds then Outstanding by registered or certified mail to the address of each such Owner as it appears on the registration books for such Bonds; provided, however, that failure to give such notice by mailing, or any defect in it, shall not affect the validity of any proceedings regarding such Supplemental Indenture. Such notice shall briefly state the nature of the proposed Supplemental Indenture and shall state that copies of it are on file at the Trustee's designated corporate trust office for

inspection by all Owners. If, within six months or such longer period as shall be prescribed by HRTAC following the giving of such notice, the Majority Owners shall have consented to and approved its execution, no Owner of any such Bond shall have any right to object to any of the terms and provisions contained in it, or its operation, or in any manner to question the propriety of its execution, or to enjoin or restrain the Trustee or HRTAC from executing such Supplemental Indenture or from taking any action under its provisions. Upon the execution of any such Supplemental Indenture permitted as described above, the Master Indenture shall be deemed to be modified and amended in accordance therewith.

Bonds owned or held by or for the account of HRTAC or any Person controlling, controlled by or under common control with HRTAC shall not be deemed Outstanding for the purpose of consent or any calculation of Outstanding Bonds for purposes of entering into Supplemental Indentures. At the time of any such calculation, HRTAC shall furnish the Trustee an Officer's Certificate describing all such Bonds so to be excluded.

Anything contained in the Master Indenture to the contrary notwithstanding, HRTAC and the Trustee may enter into any Supplemental Indenture upon receipt of the consent of the Owners of all Bonds then Outstanding.

THE 2023A SERIES SUPPLEMENT

Authorization and Details of 2023A Notes

The 2023A Series Supplement authorizes the issuance pursuant to the Master Indenture of the Series 2023A Notes. The details as to principal, interest, and redemption terms are set forth in the 2023A Series Supplement and are consistent with the provisions of the Series 2023A Notes as described in the Official Statement.

Establishment of Funds

The 2023A Series Supplement creates the following funds to be held by the Trustee:

1. the 2023A Cost of Issuance Fund;
2. the 2023A Project Fund;
3. the 2023A Bond Debt Service Fund, in which there is established the 2023A Capitalized Interest Subaccount; and
4. the 2023A Rebate Fund.

On the date of issuance of the Series 2023A Notes, the Trustee shall apply the amounts received from the underwriters of the Series 2023A Notes in payment therefor to the 2023A Cost of Issuance Fund, the 2023A Capitalized Interest Subaccount and the 2023A Project Fund as provided in the 2023A Series Supplement.

The money and investments held in the 2023A Project Fund and in the 2023A Bond Debt Service Fund are pledged to secure the Series 2023A Notes.

Cost of Issuance Fund

HRTAC shall apply the amounts in the 2023A Cost of Issuance Fund to pay the issuance and financing costs of the Series 2023A Notes. Any amount deposited in the 2023A Cost of Issuance Fund that is not applied in accordance with the Master Indenture to pay the costs of issuance of the Series 2023A Notes shall be transferred by HRTAC to the Project Fund and applied as set forth below.

Project Fund

The Trustee will apply the amounts in the 2023A Project Fund to the payment or reimbursement of the costs of certain projects as directed by HRTAC. Disbursements from the 2023A Project Fund shall be made by the Trustee

to HRTAC or as directed by HRTAC upon receipt by the Trustee of a requisition signed by an HRTAC Representative and containing all information called for by the 2023A Series Supplement.

Bond Debt Service Fund

Each monthly transfer into the 2023A Bond Debt Service Fund under the Master Indenture shall be in an amount not less than the sum of (i) one-sixth of the interest due on the Series 2023A Notes on the next ensuing Interest Payment Date, plus (ii) one-twelfth of the principal due on the Series 2023A Notes at maturity or upon mandatory redemption on the next ensuing Principal Payment Date, less (iii) accrued interest and any other interest earnings currently on deposit therein.

Rebate Fund

The Trustee shall invest and apply amounts on deposit in the 2023A Rebate Fund as directed by Officer's Certificates provided pursuant to and in accordance with the Master Indenture.

Tax Regulatory Agreement

HRTAC agrees that it will not directly or indirectly use or permit the use of the proceeds of the Series 2023A Notes except in accordance with the 2023A Tax Regulatory Agreement. HRTAC agrees that it will not take any action, or omit to take any action, if any such action or omission would adversely affect the excludability from gross income of interest on the Series 2023A Notes under Section 103 of the Tax Code. HRTAC agrees that it will not directly or indirectly use or permit the use of any proceeds of the Series 2023A Notes or any other funds of HRTAC or take or omit to take any action that would cause the Series 2023A Notes to be "arbitrage bonds" under Section 148(a) of the Tax Code. To these ends, HRTAC will comply with all requirements of Sections 141 through 150 of the Tax Code, including Section 148(f)(2) and (3) of the Tax Code, to the extent applicable to the Series 2023A Notes.

The Trustee agrees to comply with all written instructions of an HRTAC Representative given in accordance with the 2023A Tax Regulatory Agreement, but the Trustee shall not be required to ascertain whether the instructions comply with the 2023A Tax Regulatory Agreement. The Trustee shall be entitled to receive and may request from time to time from HRTAC written instructions from a nationally-recognized bond counsel acceptable to the Trustee regarding the interpretation of Sections 141 through 150 of the Tax Code, and the Trustee agrees that it will comply with such instructions (upon which the Trustee and HRTAC may conclusively rely) so as to enable HRTAC to perform its covenants under the Master Indenture and the 2023A Series Supplement.

Notwithstanding any provisions of the 2023A Series Supplement, if HRTAC shall provide to the Trustee an opinion of nationally-recognized bond counsel addressed and acceptable to HRTAC and the Trustee to the effect that any action required under the 2023A Series Supplement by incorporation or otherwise is not required or is no longer required to maintain the excludability from gross income of the interest on the Series 2023A Notes under Section 103 of the Tax Code, HRTAC and the Trustee may rely conclusively on such opinion in complying with the provisions of the Master Indenture and the 2023A Series Supplement.

APPENDIX B

FINANCIAL STATEMENTS OF HRTAC FOR THE FISCAL YEAR ENDED JUNE 30, 2023

FORM OF CONTINUING DISCLOSURE UNDERTAKING

CONTINUING DISCLOSURE UNDERTAKING

This **CONTINUING DISCLOSURE UNDERTAKING** dated _____, 2023 (the “Disclosure Undertaking”), is executed and delivered by the Hampton Roads Transportation Accountability Commission (the “Commission”), in connection with the issuance by the Commission of its \$_____ Hampton Roads Transportation Fund Intermediate Lien Bond Anticipation Notes, Series 2023A (the “Series 2023A Notes”). The Commission hereby covenants and agrees as follows:

Section 1. Purpose. This Disclosure Undertaking is being executed and delivered by the Commission for the benefit of the holders of the Series 2023A Notes and in order to assist the original purchasers of the Series 2023A Notes in complying with the provisions of Section (b)(5)(i) of Securities and Exchange Commission (“SEC”) Rule 15c2-12, as amended (the “Rule”), by providing certain annual financial information and event notices required by the Rule (collectively, “Continuing Disclosure”).

Section 2. Annual Disclosure.

(a) The Commission shall provide annually certain financial information and operating data in accordance with the provisions of Section (b)(5)(i) of the Rule as follows:

(i) the audited financial statements of the Commission prepared in accordance with accounting principles generally accepted in the United States; and

(ii) updated operating data of the type described in the Official Statement for the Series 2023A Notes in (A) Table I: “Historical Hampton Roads Transportation Fund Revenues,” (B) Appendix E, Table 1: “HRTF Revenues,” (C) Appendix E, Table 2: “Hampton Roads Transportation Fund (HRTF) Revenues and Expenditures,” and (D) Appendix E, Table 3: “Hampton Roads Transportation Fund (HRTF) Transportation Project Expenditures.”

(b) The Commission shall file annually with the Municipal Securities Rulemaking Board (the “MSRB”) the financial information and operating data described in subsection (a) above (collectively, the “Annual Disclosure”) within 180 days after the end of the Commission’s fiscal year, commencing with the Commission’s fiscal year ending June 30, 2023.

(c) Any Annual Disclosure may be included by specific reference to other documents previously provided to the MSRB or filed with the SEC; provided, however, that any final official statement incorporated by reference must be available from the MSRB.

(d) The Commission shall file with the MSRB in a timely manner notice specifying any failure of the Commission to provide the Annual Disclosure by the date specified.

Section 3. Event Disclosure. The Commission shall file with the MSRB in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of any of the following events with respect to the Series 2023A Notes:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on any credit enhancement reflecting financial difficulties;
- (e) substitution of credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or

determinations with respect to the tax status of the Series 2023A Notes, or other material events affecting the tax status of the Series 2023A Notes;

- (g) modifications to rights of Bondholders, if material;
- (h) bond calls, if material, and tender offers;
- (i) defeasance of all or any portion of the Series 2023A Notes;
- (j) release, substitution, or sale of property securing repayment of the Series 2023A Notes, if material;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the Commission;
- (m) the consummation of a merger, consolidation, or acquisition involving the Commission or the sale of all or substantially all of the assets of the Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (n) appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (o) incurrence of a “Financial Obligation”^{*} of the Commission, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Commission, any of which affect Bondholders of the Series 2023A Notes, if material; and
- (p) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Commission, any of which reflect financial difficulties.

Section 4. Termination. The obligations of the Commission hereunder will terminate upon the redemption, defeasance (within the meaning of the Rule) or payment in full of all the Series 2023A Notes.

Section 5. Amendment. The Commission may modify its obligations hereunder without the consent of Bondholders, provided that this Disclosure Undertaking as so modified complies with the Rule as it exists at the time of modification. The Commission shall within a reasonable time thereafter file with the MSRB a description of such modification(s).

Section 6. Defaults. (a) If the Commission fails to comply with any covenant or obligation regarding Continuing Disclosure specified in this Disclosure Undertaking, any holder (within the meaning of the Rule) or beneficial holder of Bonds then outstanding may, by notice to the Commission, proceed to protect and enforce its rights and the rights of the holders by an action for specific performance of the Commission’s covenant to provide the Continuing Disclosure.

(b) Notwithstanding anything herein to the contrary, any failure of the Commission to comply with any obligation regarding Continuing Disclosure specified in this Disclosure Undertaking (i) shall not be deemed to constitute an event of default under the Series 2023A Notes or the Master Indenture of Trust, and any supplement thereto, providing for the issuance of the Series 2023A Notes and (ii) shall not give rise to any right or remedy other than that described in Section 6(a) above.

^{*} “Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

Section 7. Filing Method. Any filing required hereunder shall be made by transmitting such disclosure, notice or other information in electronic format to the MSRB through the MSRB's Electronic Municipal Market Access (EMMA) system pursuant to procedures promulgated by the MSRB.

Section 8. Additional Disclosure. The Commission may from time to time disclose certain information and data in addition to the Continuing Disclosure. Notwithstanding anything herein to the contrary, the Commission will not incur or be subject to any obligation or duty to continue to provide, or to update, such additional information or data.

Section 9. Dissemination Agent. The Commission may, in its discretion, from time to time appoint or engage an entity to serve as Dissemination Agent to assist the Commission in fulfilling its covenants and obligations regarding this Disclosure Undertaking. HRTAC anticipates utilizing the services of Digital Assurance Certification, L.L.C. to serve as Dissemination Agent.

Section 10. Counterparts. This Disclosure Undertaking may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11. Governing Law. This Disclosure Undertaking shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia.

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____
Richard W. West, Chair

By: _____
Kevin B. Page, Executive Director

APPENDIX D

DEMOGRAPHIC, ECONOMIC AND FINANCIAL INFORMATION REGARDING PLANNING DISTRICT 23 AND THE HAMPTON ROADS MSA

APPENDIX E

HRTAC REVENUES AND EXPENSES

APPENDIX F

FORM OF BOND COUNSEL OPINION

APPENDIX G

INFORMATION REGARDING THE DEPOSITORY TRUST COMPANY AND ITS BOOK-ENTRY SYSTEM

INFORMATION REGARDING THE DEPOSITORY TRUST COMPANY AND ITS BOOK-ENTRY SYSTEM

The description which follows of the procedures and recordkeeping with respect to beneficial ownership interests in the Bonds, payments of principal of and premium, if any and interest on the Series 2023A Notes to The Depository Trust Company, New York, New York (“DTC”), its nominee, Participants or Beneficial Owners (each as hereinafter defined), confirmation and transfer of beneficial ownership interests in the Bonds and other bond-related transactions by and between DTC, Participants and Beneficial Owners is based solely on information furnished by DTC.

DTC will act as securities depository for the Series 2023A Notes. The Series 2023A Notes will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2023A Note certificate will be issued for the Series 2023A Notes, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (the “Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has an S&P rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Series 2023A Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2023A Notes on DTC’s records. The ownership interest of each actual purchaser of each Bond (the “Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners, however, are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2023A Notes are to be accomplished by entries made on the books of Direct or Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2023A Notes, except in the event that use of the book-entry system for the Series 2023A Notes is discontinued.

To facilitate subsequent transfers, all Series 2023A Notes deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2023A Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2023A Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2023A Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holding on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by

arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Series 2023A Notes may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2023A Notes, such as redemptions, tenders, defaults, and proposed amendments to the documents relating to the Series 2023A Notes. For example, Beneficial Owners of Series 2023A Notes may wish to ascertain that the nominee holding the Series 2023A Notes for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee as bond registrar (the “Registrar”) and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2023A Notes are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2023A Notes unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Commission or the Registrar as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, interest and redemption proceeds on the Series 2023A Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Commission or the Registrar, on payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC, the Commission or the Registrar subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Commission or the Registrar, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Series 2023A Notes at any time by giving reasonable notice to the Commission or the Registrar. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2023A Bond certificates will be printed and delivered.

The Commission may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Series 2023A Bond certificates will be printed and delivered.

The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that the Commission believes to be reliable, but the Commission takes no responsibility for the accuracy thereof.

Neither the Commission nor the Registrar has any responsibility or obligation to the Direct or Indirect Participants or the Beneficial Owners with respect to (a) the accuracy of any records maintained by DTC or any Direct or Indirect Participant; (b) the payment by any Direct or Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of and interest on the Series 2023A Notes; (c) the delivery or timeliness of delivery by any Direct or Indirect Participant of any notice to any Beneficial Owner that is required or permitted under the terms of the Master Indenture to be given to Bondholders; or (d) any other action taken by DTC, or its nominee, Cede & Co., as Bondholder, including the effectiveness of any action taken pursuant to an Omnibus Proxy.

So long as Cede & Co. is the registered owner of the Series 2023A Notes, as nominee of DTC, references in this Official Statement to the Owners of the Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners, and Cede & Co. will be treated as the only holder of Series 2023A Notes for all purposes under the Master Indenture.

The Commission may enter into amendments to the agreement with DTC or successor agreements with a successor securities depository, relating to the book-entry system to be maintained with respect to the Series 2023A Notes without the consent of Beneficial Owners or noteholders.

6. C. Amended and Restated Project Agreement for Funding and Administration for the I-64 Hampton Roads Bridge-Tunnel Expansion Project –Actions in Support of VDOT’s Efforts Re: Project Issues – To Be Addressed in Resolution 2023-03 – Closed Session

Agenda Item 6C
Action Item

To: Chair West and the other members of the Commission

From: Kevin B. Page, Executive Director

Date: September 21, 2023

Re: Amended and Restated Project Agreement for Funding and Administration for the I-64 Hampton Roads Bridge-Tunnel Expansion Project –Actions in Support of VDOT’s Efforts Re: Project Issues – To Be Addressed in Resolution 2023-03 – Closed Session

Recommendation:

HRTAC Staff may recommend that the Commission approve Resolution 2023-03 to support VDOT’s efforts to resolve certain issues relating to I-64 Hampton Roads Bridge-Tunnel Expansion Project. The proposed resolution is not included with this briefing memo, but rather will be presented through a subsequent briefing.

Background:

At the September 15, 2022 Regular Meeting, the Commission adopted Resolution 2022-05 (a copy of which is attached). In that Resolution, the Commission noted that (a) the Virginia Department of Transportation (VDOT) may engage in negotiations with the Design-Builder of the I-64 Hampton Roads Bridge-Tunnel Expansion Project with respect to delay and construction issues, and (b) VDOT and HRTAC may, among other things, need to amend the terms of the Project Agreement for Funding and Administration (PAFA)(through which the Commission funds the project) to support the resolution of those issues. Those negotiations have matured and VDOT and HRTAC Staff will provide an update, and HRTAC Staff will either recommend that the Commission approve the extension of the plenary authority granted under Resolution 2022-05 or that the Commission approve other action in support of the resolution of the delay and construction issues. HRTAC and VDOT have a common interest with respect to the administration of the Project and the completion schedule.

Fiscal Impact:

The fiscal impact to the Hampton Roads Transportation Fund, if any, will be addressed in the supplemental briefing and the resolution.

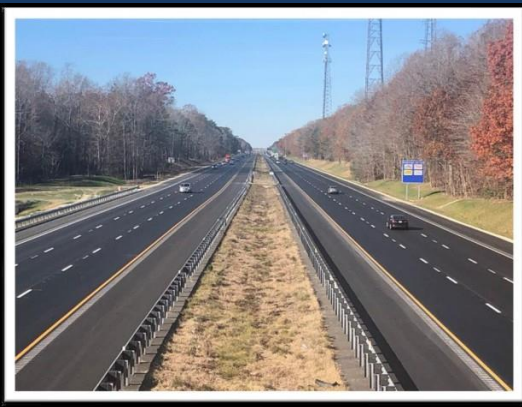
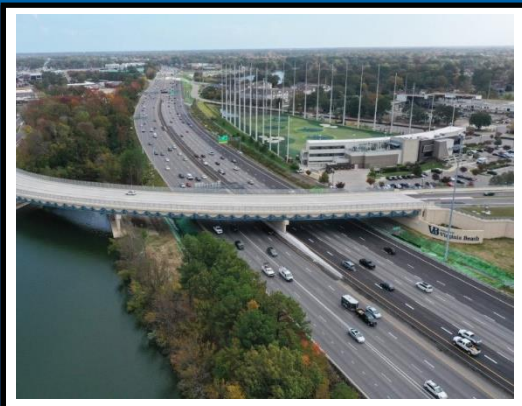


Applicable Motion(s):

Counsel will provide the Commission with a suggested motion to convene the closed session. After the closed session concludes, if the Commission desires to take further action during the reconvened open session, it would be to adopt Resolution 2023-03.

7. A. HRTAC Monthly Financial Report

7. B. VDOT Project Updates



HRTAC PROGRAM MONTHLY EXECUTIVE REPORT

September 2023

ORIGINAL MAJOR PROJECTS

I-64 Peninsula Widening- Segment I	Construction Completed
I-64 Peninsula Widening- Segment II	Construction Completed
I-64 Peninsula Widening- Segment III	Construction Completed
I-64/I-264- Phase I	Construction Completed
I-64/I-264- Phase II	Construction Completed
I-64 Southside Widening and High Rise Bridge Phase I	In Construction

HRTAC Program Development Monthly Executive Report September 2023

Hampton Roads District
7511 Burbage Drive
Suffolk

I-64 Peninsula Widening- Segment I

UPC 104905 (HRTAC)
UPC 111926 (State / Federal)

Project Scope:

From 0.52 miles east of Yorktown Road/Rte 238 (Exit 247) to 1.55 miles west of Jefferson Ave/Rte 143 (Exit 255) (6.1 miles)

- Additional 12' wide travel lanes and 12' wide shoulders within the existing median space
- Replacement of the Industrial Park Drive bridges, and repair and widening of 4 bridges and 2 major culverts
- Strengthened shoulder lane from Ft Eustis Blvd Interchange to Jefferson Avenue Interchange

Project Financial Summary:

Project Budget (\$111,608,384):

- PE \$ 2,738,567
- RW \$ 32,494
- CN \$ 108,837,323

Funds Expended (as of 08/31/2023):

\$ 2,738,567
\$ 32,494
\$ 108,837,323
\$ 111,608,384

Project Cost Over:

\$ 0
\$ 0
\$ 0

Project Schedule:

Notice To Proceed (NTP)	March 2015
Project Completion	December 2017
Schedule Status	Completed

Enabling Funding

HRTAC	\$ 11,608,384
State/Federal	<u>\$ 100,000,000</u>
	\$ 111,608,384

Project Status:

- Completion achieved on December 1, 2017
- Project financially closed



Project Site (Looking West from Denbigh)

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:

Project Budget (\$159,559,703):

- PE \$ 2,869,659
- RW \$ 530,122
- CN \$ 156,159,922

Funds Expended (as of 08/31/2023):

\$ 2,869,659
\$ 530,122
\$ 156,159,922
\$ 159,559,703

Project Cost Over:

\$ 0
\$ 0
\$ 0

Project Schedule:

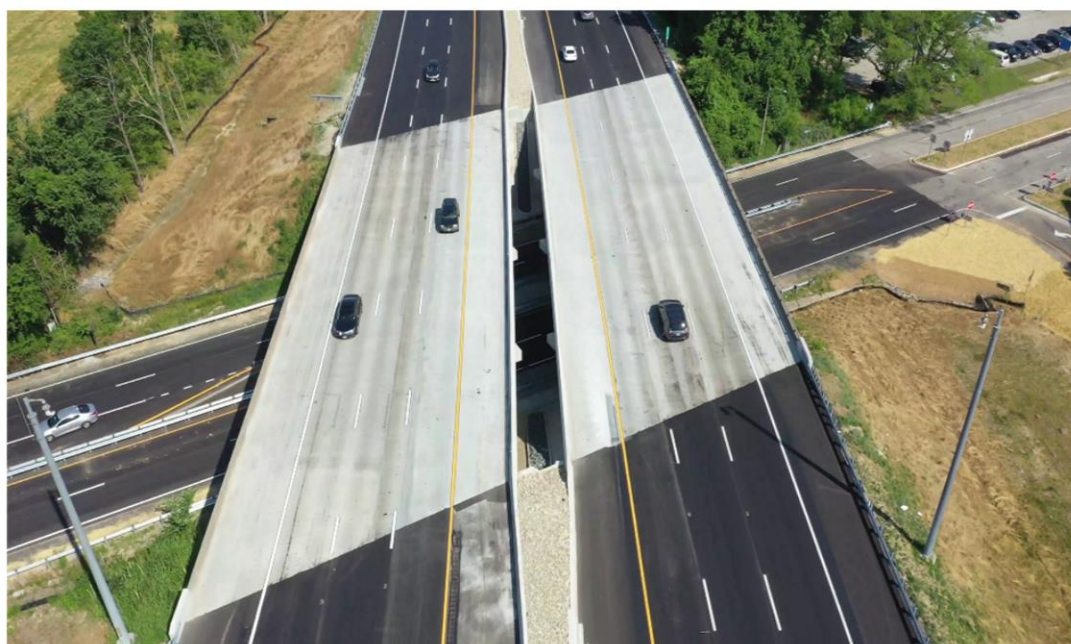
Notice To Proceed	February 2016
Project Completion	May 2019
Schedule Status	Completed

Enabling Funding

HRTAC	\$ 159,559,703
State/Federal	\$ _____.
	\$ 159,559,703

Project Status:

- Completion achieved on November 15, 2019
- Project financially closed



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:

Project Budget (\$244,045,973):

- PE \$ 10,000,000
- RW \$ 12,000,000
- CN \$ 222,045,973

Funds Expended (as of 08/31/2023):

\$ 5,766,065
\$ 905,003
\$ 200,998,037
\$ 207,669,105

Project Cost Over/(Under):

\$ 0
\$ 0
\$ 0

Project Schedule:

Notice To Proceed	January 2018
Project Completion	December 2021*
Schedule Status	Completed

Enabling Funding

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:

- In final contract close out



I-64 traffic at the Barlow Road overpass (looking west)

HRTAC Program Development Monthly Executive Report September 2023

Hampton Roads District
7511 Burbage Drive
Suffolk

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:

Project Budget (\$158,730,023):

- PE \$ 10,135,307
- RW \$ 11,571,063
- CN \$ 137,023,653

Funds Expended (as of 08/31/2023):

\$ 10,135,307
\$ 20,458,115
\$ 122,233,522
\$ 152,826,944

Project Cost Over:

\$ 0
\$ 8,887,052
\$ 0

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 43
- 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:

Project Budget (\$194,503,887):

- PE \$ 14,082,810
- RW \$ 54,392,666
- CN \$ 126,028,411

Funds Expended (as of 08/31/2023):

\$ 14,082,810
\$ 56,043,902
\$ 134,276,587
\$ 204,403,299

Project Cost Over:

\$ 0
\$ 1,651,236
\$ 8,248,176

*Note: Overrun due to higher than expected property settlements.

**Note: Overrun primarily due to change orders and CEI costs.

Enabling Funding

HRTAC	\$ 127,749,638
State/Federal	<u>\$ 66,754,249</u>
	\$ 194,503,887

Project Schedule:

Notice to Proceed	February 2018
Project Completion	November 2022*
Schedule Status	Completed

*The Project Fixed Completion Date was extended from September 2021 to November 2022 due to additional scope and differing site conditions.

Project Status:

- In final contract close out



I-264 EB at Cleveland Street Flyover



I-264 EB at Cleveland Street Flyover (Bridge Lighting)

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 08/31/2023):</u>	<u>Project Cost Over:</u>
○ PE \$ 12,200,000	\$ 12,189,268	\$ 0
○ RW \$ 18,726,000	\$ 11,348,016	\$ 0
○ CN \$ 493,687,765	<u>\$ 444,653,684</u>	\$ 0
	\$ 468,190,968	

Project Schedule:

Notice to Proceed	November 2017
Fixed Completion Date	December 2022 ⁽¹⁾
Projected Completion	October 2023 ⁽²⁾

Enabling Funding

HRTAC	\$ 431,956,220
State/Federal	<u>\$ 92,657,545</u>
	\$ 524,613,765

- (1) The Project Fixed Completion Date was extended to December 2022 to add roadway/drainage infrastructure for future Part-Time Shoulder Express Lanes.
- (2) The August 10, 2023 schedule update from contractor shows a 292-day late completion (October 19, 2023)

Project Status:

- New HRB completed and open to traffic
- Great Bridge Blvd Bridge – Bridge construction, MSE walls completed. Bridge open to traffic. Approach roadway and drainage continue. Traffic shifted to final roadway configuration.
- I-64 Bridge Widening over Military Highway, Yadkin Road, and Shell Road completed and open to traffic
- Drainage/stormwater, pavement, ITS, signing, median barriers, and/or guardrail continue on all five roadway segments



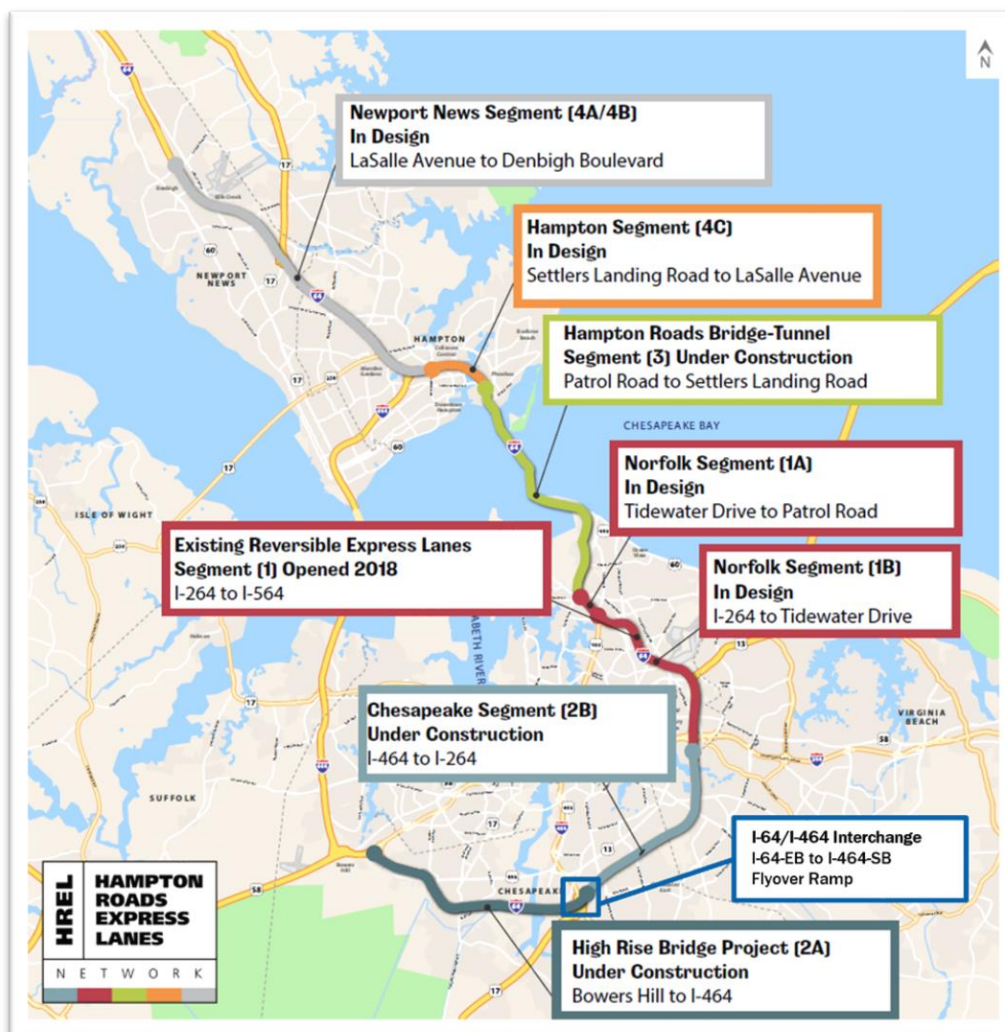
Traffic on new High Rise Bridge (looking west)



BMP-7E at Battlefield Blvd. Loop, and I64WB Off-Ramp to Battlefield Blvd. and Noise Wall 15 (looking east)

HREL PROJECTS

HREL Segment 1A (Norfolk)	In Construction
HREL Segment 1B (Norfolk)	In Design
HREL Segment 2B (Chesapeake)	Construction Completed
HREL Segment 3 (HRBT Tolling Infrastructure)	In Design
HREL Segment 4A/4B (Newport News)	In Design
HREL Segment 4C (Hampton)	In Construction
I-64/I-464 Exit 291 Interchange Improvements	In Procurement



HREL Segment 1A (Norfolk)

UPC 117840 (HRTAC) Phase 1-PE
UPC 119637

Project Scope:

From Tidewater Drive to Patrol Road, an existing General Purpose shoulder will be converted into a Part Time Shoulder Express Lane in each direction

- Widening five bridges (EB/WB Tidewater Drive, EB Granby Street, EB I-564, and EB E. Little Creek Road)
- Rehabilitating/strengthening two miles of shoulder in each direction
- Widening roadway in spot locations to maintain minimum shoulder width
- Includes noise walls, tolling gantries, and overhead signing

Project Financial Summary:

Project Budget (\$197,612,207):*

- PE \$ 4,900,000*
- RW \$ 500,000
- CN \$ 192,212,207

Funds Expended (as of 08/31/2023):

\$ 8,292,955
\$ 2,246
\$ 865,902
\$ 9,161,103

Project Cost Over:

\$3,392,955**
\$ 0
\$ 0

*Note: The Project PE budget includes \$1,981,680 from the HRTAC funded UPC 117840 Phase 1-PE \$5,621,500 budget. Current SPA includes PE and RW only. CN will be added at award.

**Note: Funds expended are in the process of being transferred to HREL Segment 1B UPC 120863 to correct cost overrun.

Project Schedule:

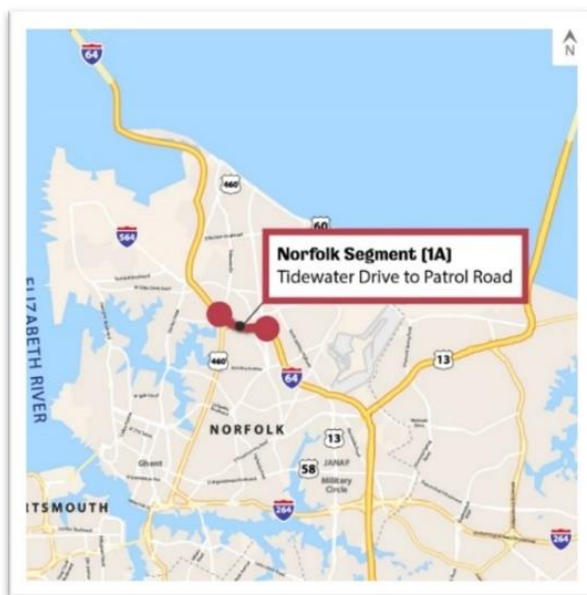
DB Notice to Proceed	December 20, 2022
Fixed Completion Date	January 15, 2026
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 94,061,245*
State/Federal	<u>\$ 103,550,962</u>
	\$ 197,612,207

Project Status:

- VDOT has approved all 8 Stage 1 bridge reports and the Stage 2 packages are in development
- VDOT has received one revised advanced work packages and is currently reviewing
- VDOT has received the revised Field Inspection/Right of way plans and is currently reviewing



HRTAC Program Development Monthly Executive Report September 2023

Hampton Roads District
7511 Burbage Drive
Suffolk

HREL Segment 1B (Norfolk)

UPC 117840 (HRTAC) Phase 1-PE
UPC 120863

Project Scope:

From I-264 to Tidewater Drive, an existing General Purpose shoulder will be converted into a Part Time Shoulder Express Lane in each direction

- Replacing two bridges (EB/WB Chesapeake Boulevard)
- Rehabilitating/strengthening seven miles of shoulder in each direction
- Widening roadway in spot locations to maintain minimum shoulder width
- Includes noise walls, tolling gantries, and overhead signing

Project Financial Summary:

Project Budget (\$315,885,943):*

- PE \$ 13,700,000*
- RW \$ 2,865,000
- CN \$ 299,320,943

Funds Expended (as of 08/31/2023):

\$ 1,636,262
\$ 0
\$ 0
\$ 1,636,262

Project Cost Over:

\$ 0
\$ 0
\$ 0

* Note: The Project PE budget includes \$3,639,820 from the HRTAC funded UPC 117840 Phase 1-PE \$5,621,500 budget. Current SPA includes PE and RW only. CN will be added at award.

Project Schedule

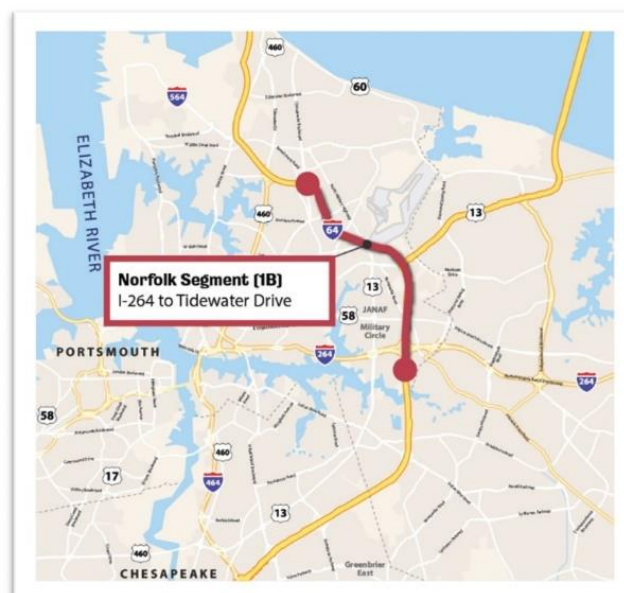
Public Hearing	December 1 & 2, 2021
Request for Qualifications	May 2024
Request for Proposals	September 2024
Notice to Proceed	July 2025
Fixed Completion Date	October 2028
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$254,485,943*
State/Federal	\$ 61,400,000
	\$315,885,943

Project Status:

- The preliminary design continues for the RFQ release



HREL Segment 2B (Chesapeake)

UPC 112923

Project Scope:

From the I-64/464 interchange to the I-64/264 interchange, 7.65 miles of an existing HOV lane is being converted into an Express Lane in each direction

- Includes concrete barriers and minor drainage improvement
- Includes tolling gantries, tolling equipment, signing, and overhead signage

Project Financial Summary:

Project Budget (\$25,000,000):

- PE \$ 2,538,000
- RW \$ 0
- CN \$ 22,462,000

Funds Expended (as of 08/31/2023):

\$ 2,543,662
\$ 0
\$ 22,369,787
\$ 24,913,449

Project Cost Over:

\$ 5,662
\$ 0
\$ 0

Project Schedule:

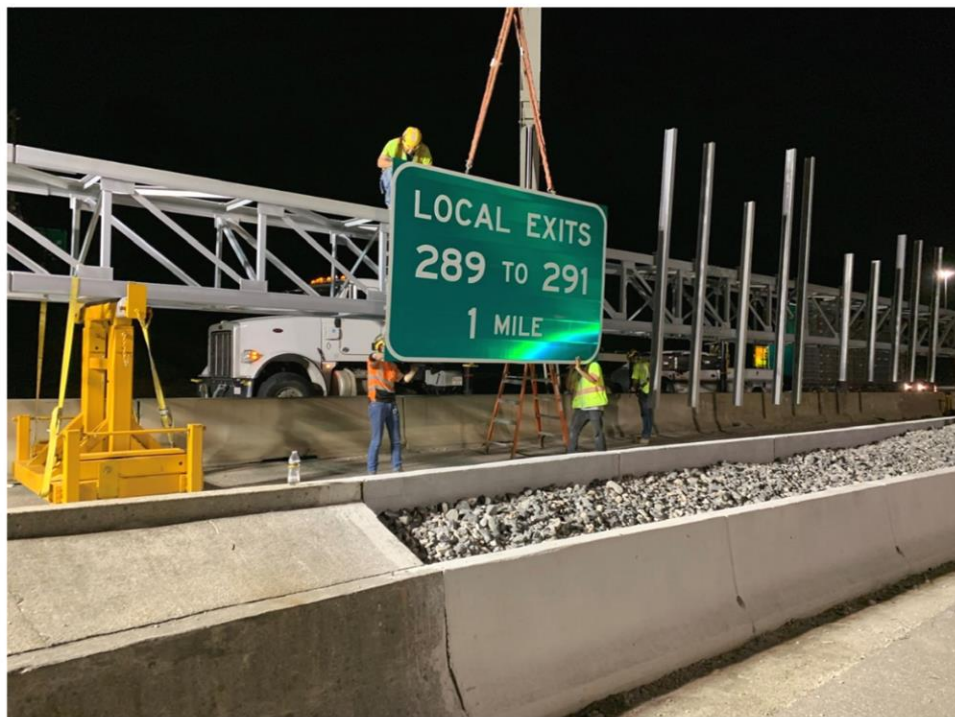
Notice to Proceed October 2020
Project Completion September 2022
Schedule Status Completed

Enabling Funding

TIFRA \$ 25,000,000
State/Federal \$ _____
\$ 25,000,000

Project Status:

- In final contract close out



Local Exit Sign for the Express Lanes

HREL Segment 3

UPC 118376

Project Scope:

From the I-64 Interchange at Mallory Street to the I-64 Overpass at Patrol Road, Express Lane tolling infrastructure is being installed in each direction for 9.7 miles within the HRBT expansion project limits. Enhancements to the Over Height Vehicle Detection System (OHVDS) will also be added in the Westbound direction of I-64 within the project limits.

- Limited to tolling signage and structures, ITS and equipment, pavement markings, and OHVDS equipment
- Connector to HREL Segments 4C and 1A

Project Financial Summary:

Project Budget (\$18,789,474):

- PE \$ 1,361,556
- RW \$ 0
- CN \$ 17,427,918

Funds Expended (as of 08/31/2023):

\$ 142,967
\$ 0
\$ 0
\$ 142,967

Project Cost Over:

\$ 0
\$ 0
\$ 0

Project Schedule:

Willingness Posted	April 26, 2023 *
Design Approval	October 13, 2023
Advertisement	July 9, 2024**
Award	December 9, 2024**
Project Completion	June 2027 **
Schedule Status	On-Schedule

Enabling Funding

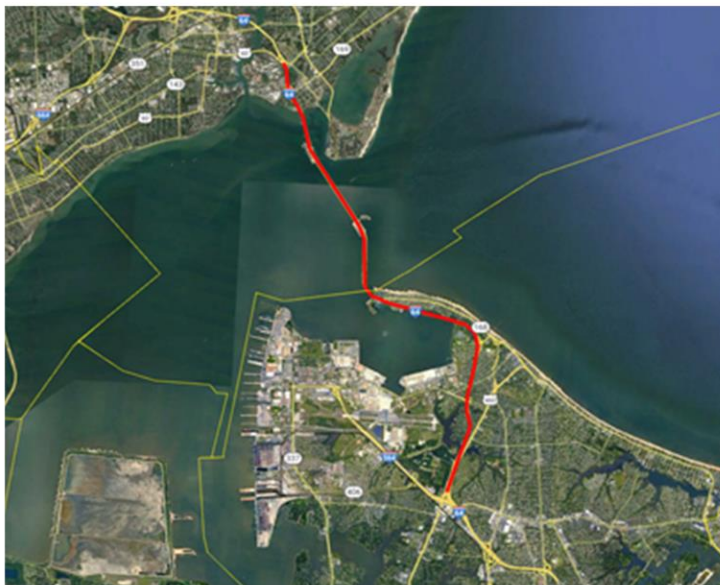
HRTAC	\$ 18,789,474
State/Federal	\$ _____
	\$ 18,789,474

*Note: Due to no right of way phase, posting for willingness took the place of a public hearing.

**Note: Dates for construction activities may be adjusted to match the HRBT project's construction timeline for opening the HREL corridor to tolling.

Project Status:

- Preparing documents to seek Design Approval
- Revising schedule and estimate to incorporate additional Express Lane scope



HREL Segment 4A/4B (Newport News)

UPC 117839 (HRTAC) Phase 1-PE
UPC 119824

Project Scope:

From Jefferson Avenue in Newport News to Mercury Boulevard in Hampton, an existing HOV lane will be converted into an Express Lane in both directions. From Mercury Boulevard to LaSalle Avenue in Hampton, one Express Lane will be constructed in each direction. The total length of the project is 13.5 miles

- Replacing two bridges (EB/WB LaSalle Avenue)
- Rehabilitating three bridges (EB/WB Armistead Avenue, EB/WB Billy Woods Canal, and EB/EB J. Clyde Morris Blvd)
- Includes tolling gantries, and overhead signage

Project Financial Summary:

<u>Project Budget (\$172,220,184):*</u>	<u>Funds Expended (as of 08/31/2023):</u>	<u>Project Cost Over:</u>
○ PE \$ 12,891,063*	\$ 7,712,401	\$ 0
○ RW \$ 1,850,000	\$ 31,407	\$ 0
○ CN \$ 157,479,121	\$ 0	\$ 0
	\$ 7,743,808	

* Note: The Project PE budget includes \$5,916,425 from the HRTAC funded UPC 117839 Phase 1-PE budget. Current SPA includes PE and RW only. CN will be added at award.

Project Schedule:

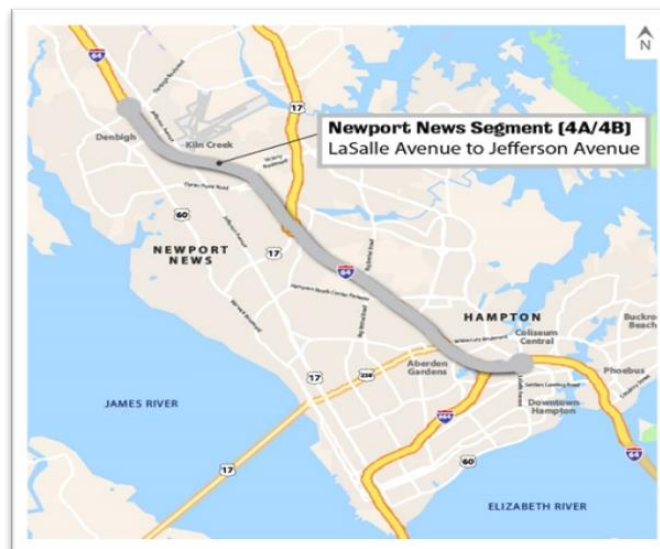
Public Hearing	September 29 & 30, 2021
Advertisement	November 9, 2023
Notice to Proceed	February 9, 2024
Fixed Completion Date	April 15, 2026
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 151,220,184*
State/Federal	\$ 21,000,000
	\$ 172,220,184

Project Status:

- Received Design Approval from Central Office on February 18, 2022
- Technical design and plan production continues to progress
- Federal authorization received May 4, 2022
- Bidability review period started August 18, 2023



HRTAC Program Development Monthly Executive Report September 2023

Hampton Roads District
7511 Burbage Drive
Suffolk

HREL Segment 4C (Hampton)

UPC 117841 (HRTAC) Phase 1- PE
UPC 119638

Project Scope:

From LaSalle Avenue to Settlers Landing Road, one Express Lane will be constructed, and one general purpose lane will be converted into an Express Lane in each direction for 2.4 miles

- Replacing two bridges (EB Hampton River) and rehabilitating one bridge (Rip Rap Road)
- Rehabilitating/widening three bridges (WB Hampton River, EB/WB King Street, EB/WB Settlers Landing Road)
- Includes noise walls, tolling gantries, and overhead signage

Project Financial Summary:

<u>Project Budget (\$407,922,054):</u>	<u>Funds Expended (as of 08/31/2023):</u>	<u>Project Cost Over:</u>
○ PE \$ 6,167,176	\$ 6,178,305	\$ 11,129
○ RW \$ 8,000,000	\$ 1,471,575	\$ 0
○ CN \$ 393,754,878	<u>\$56,727,056</u>	\$ 0
	\$64,376,936	

Project Schedule:

Notice to Proceed	August 1, 2022
All Lanes Open to Traffic	November 2026
Project Completion	December 2026
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 405,216,054
State/Federal	<u>\$ 2,706,000</u>
	\$ 407,922,054

Project Status:

- Project Awarded to Shirley-Branch Joint Venture (SBJV)
- JPA Permit submitted to regulatory agencies in February 2023, approval anticipated in late August 2023
- 100% Roadway Plans are approved. Bridge plans are currently under review
- Median crossover work complete and major traffic switch onto EB 64 Hampton River bridge has been implemented
- Bridge rehabilitation work on the WB Hampton River bridge is underway



HREL 4C traffic switch onto the EB 64 Hampton River bridge

I-64/I-464 Interchange Exit 291 Ramp Improvements

UPC 120375

Project Scope:

To improve the I-64/I-464 Interchange and provide a direct connection between I-64 EB and Route 168 SB (Chesapeake Expressway) via I-464 SB. The project includes the following:

- New flyover ramp from I-64 eastbound to I-464 southbound (to Route 168)
- Reconfiguration of I-64 eastbound ramp to I-464 northbound
- Shift the I-464 southbound diverge point for Rte. 17 and Rte. 168 approximately 2000ft. to the north

Project Financial Summary:

Project Budget (\$180,862,923):

- PE \$ 4,420,000
- RW \$ 1,276,469
- CN \$175,166,454

Funds Expended (as of 08/31/2023):

\$ 1,676,880
\$ 0
\$ 0
\$ 1,676,880

Project Cost Over:

\$ 0
\$ 0
\$ 0

Project Schedule:

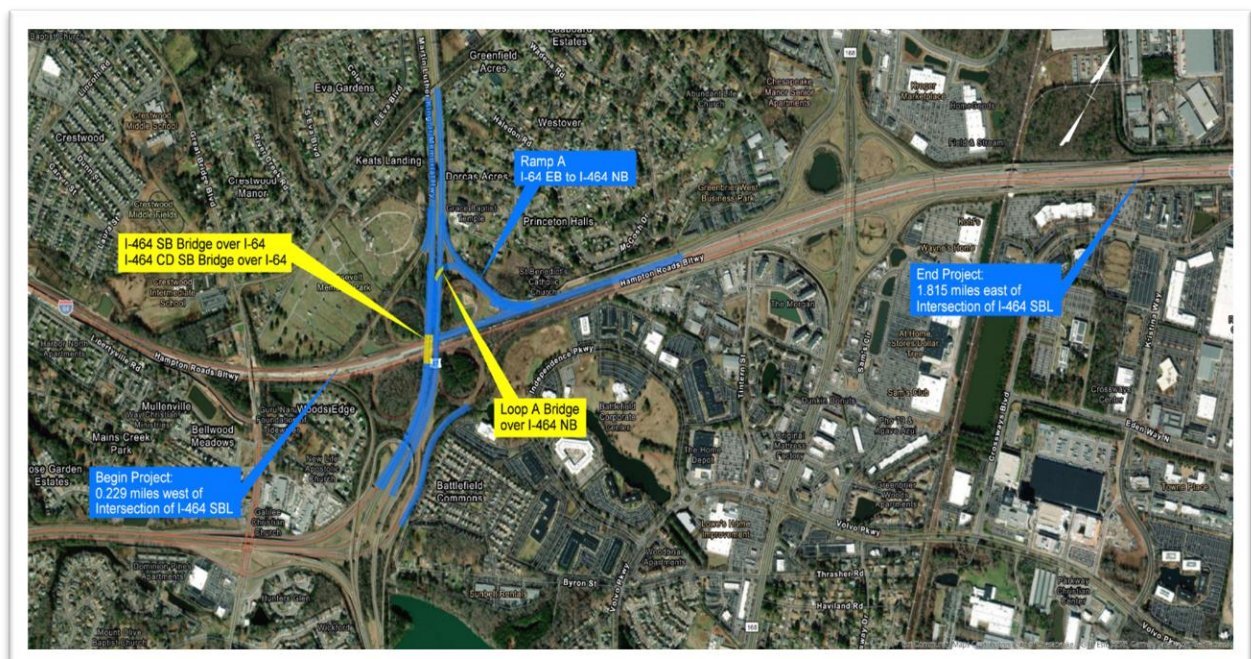
Request for Qualifications	April 12, 2023
Public Hearing	May 2023
Request For Proposals	July 11, 2023
Notice to Proceed	February 15, 2024
Project Completion	July 16, 2027
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 40,862,923
State/Federal	\$ 140,000,000
	\$ 180,862,923

Project Status:

- RFQ release occurred on April 12, 2023
- Public Hearing occurred on May 23, 2023
- RFP was released on July 11, 2023



OTHER MAJOR PROJECTS

I-264/I-64 Interchange Phase III-A

In Design

Bowers Hill Interchange

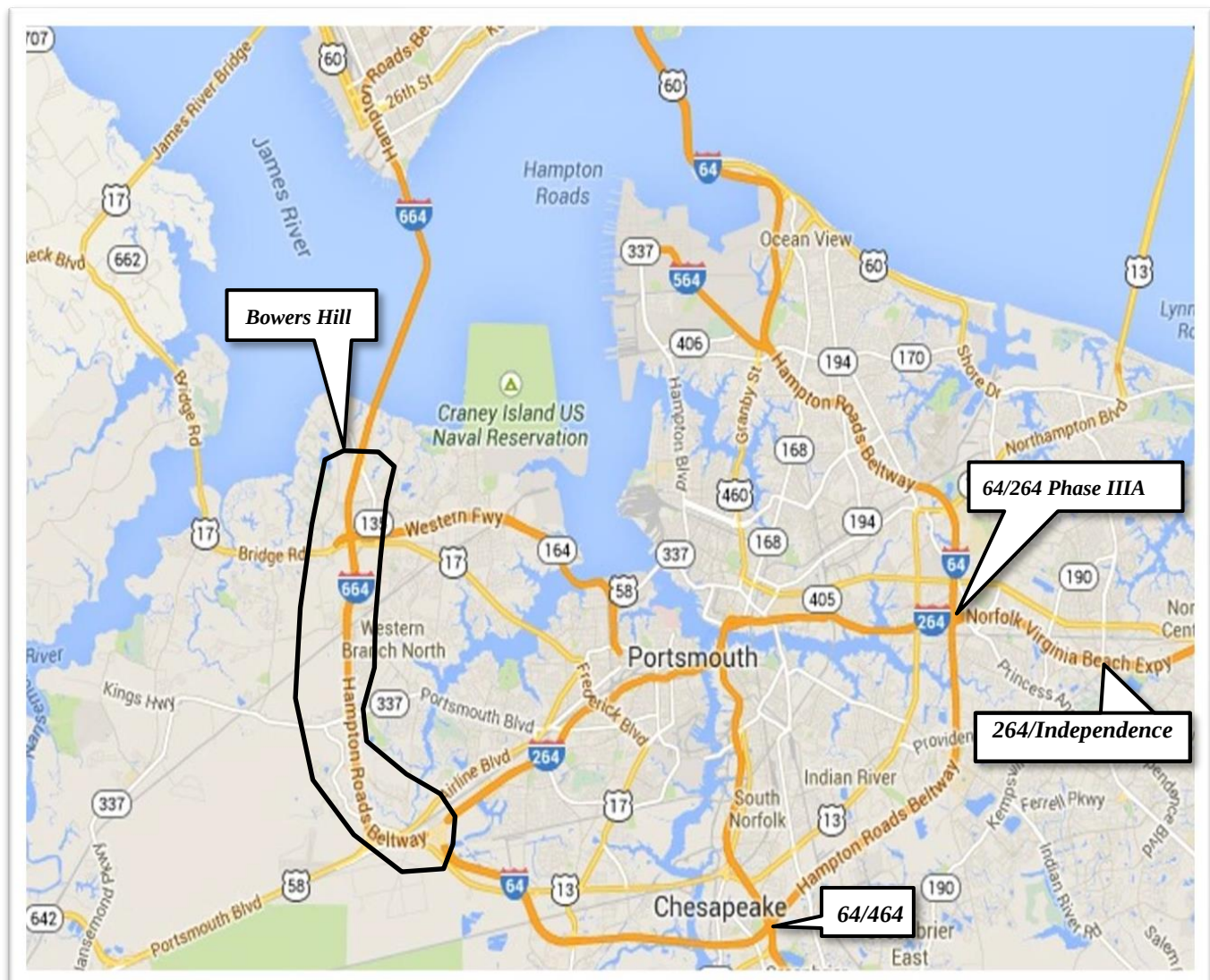
Under Study

I-64/I-464 Interchange IAR

Under Study

I-264/Independence Blvd Interchange IAR

Under Study



I-64/I-264 Phase III-A

UPC 106693 (HRTAC)

Project Scope:

Study/design to improve the remaining I-64/I-264 movements

- Includes study and IMR of entire interchange
- Includes preliminary design and design-build procurement of Subproject III-A – Ramp from I-64 EB to I-264 EB

Project Financial Summary:

Project Budget (\$7,500,000):

- PE \$ 7,500,000
- RW \$ 0
- CN \$ 0

Funds Expended (as 08/31/2023):

\$ 6,119,492
\$ 0
\$ 0
\$ 6,119,492

Project Cost Over:

\$ 0
\$ 0
\$ 0

Project Schedule:

IMR Final Approval	October 2020
Complete Preliminary Design	January 2023
Request for Qualifications	December 2024
Request for Proposals	May 2025
Award	December 2025
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 7,500,000
State/Federal	\$ _____
	\$ 7,500,000

Project Status:

- Preliminary design and plans for Subproject III-A complete
- PFI-level project cost estimate for Subproject III-A complete
- Continued development of revised NEPA document
- Seeking approvals for Design Waivers and Exceptions
- Incorporating de-scope elements and documentation from HREL 1B into this project
- NTP for DB Contract Development Phase to begin January 2024



Proposed I-64/I-264 Interchange Improvements from IMR (Subproject III-A shown in Blue)

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. Original scope modified to include extending study to College Drive interchange with 664 and add Managed Lane component through Bowers Hill interchange to College Drive Interchange to reflect HRTPO directed changes.
- Scope also includes the IAR of the Bowers Hill interchange and the I-664 widening to College Drive. HRTAC added \$4 million of funding to the UPC in July 2023 for the IAR study.

Study Financial Summary:

Project Budget (\$11,904,630):

- PE \$ 11,904,630
- RW \$ 0
- CN \$ 0

Funds Expended (as of 08/31/2023):

\$ 5,905,531
\$ 0
\$ 0
\$ 5,905,531

Project Cost Over:

\$ 0
\$ 0
\$ 0

Study Schedule:

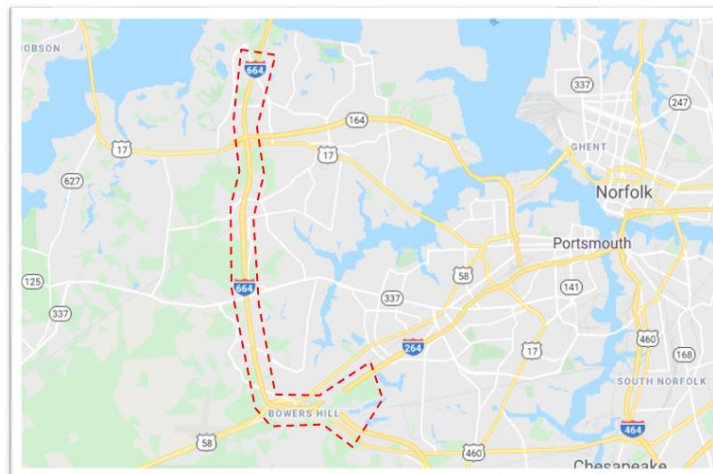
Begin NEPA Process	July 2020
Preferred NEPA Alternative Recommendation	February 2022
NEPA Completion	March 2024
IAR Consultant NTP	June 2023
IAR Completion	June 2025
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 11,904,630
State/Federal	\$ _____
	\$ 11,904,630

Study Status:

- We are in the middle of the 45-day public comment period on the Draft EIS. We will document all comments received and responses to substantive comments will be included in the Final EIS
- We briefed agencies involved in the Study on August 9 and briefed District Environmental leadership on August 17
- The virtual and in person Public Hearing occurred August 29 and August 30, respectively
- IAR Kickoff meeting on 7/26/23; Coordination for traffic data collection and Development of Draft Framework Document are ongoing



I-64/I-464 Interchange IAR

UPC 122714 (HRTAC)

Study Scope:

Study and develop an IAR of the entire interchange

Study Financial Summary:

<u>Project Budget (\$2,500,000):</u>	<u>Funds Expended (as of 08/31/2023):</u>	<u>Project Cost Over:</u>
○ PE \$ 2,500,000	\$ 21,971	\$ 0
○ RW \$ 0	\$ 0	\$ 0
○ CN \$ 0	\$ 0	\$ 0
	\$ 21,971	

Study Schedule:

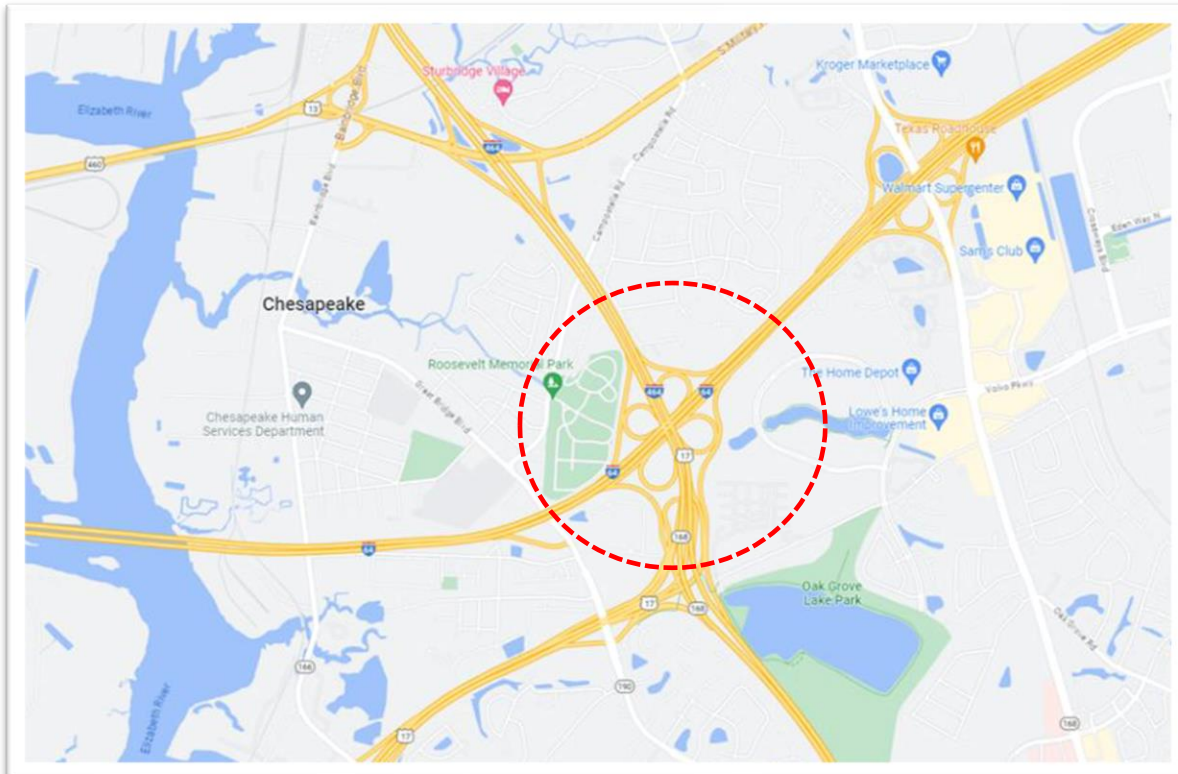
Study Authorization	January 2023
LD-459 Framework Document	April 2023
Preferred Alternatives	January 2024
Public Hearing/CIM	June 2024
Final IAR Submission	October 2024
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 2,500,000
State/Federal	\$ _____
	\$ 2,500,000

Study Status:

- Framework Document signed and approved April 14, 2023
- Data Collection completed in the first week of May 2023
- Travel Forecast models and existing volumes calibration have been completed and submitted for review by agencies



I-264/Independence Blvd Interchange IAR

UPC 122761 (HRTAC)

Study Scope:

Study and develop an IAR of the entire interchange

Study Financial Summary:

Project Budget (\$1,250,000):

- PE \$ 1,250,000
- RW \$ 0
- CN \$ 0

Funds Expended (as of 08/31/2023):

\$ 0
\$ 0
\$ 0
\$ 0

Project Cost Over:

\$ 0
\$ 0
\$ 0

Study Schedule:

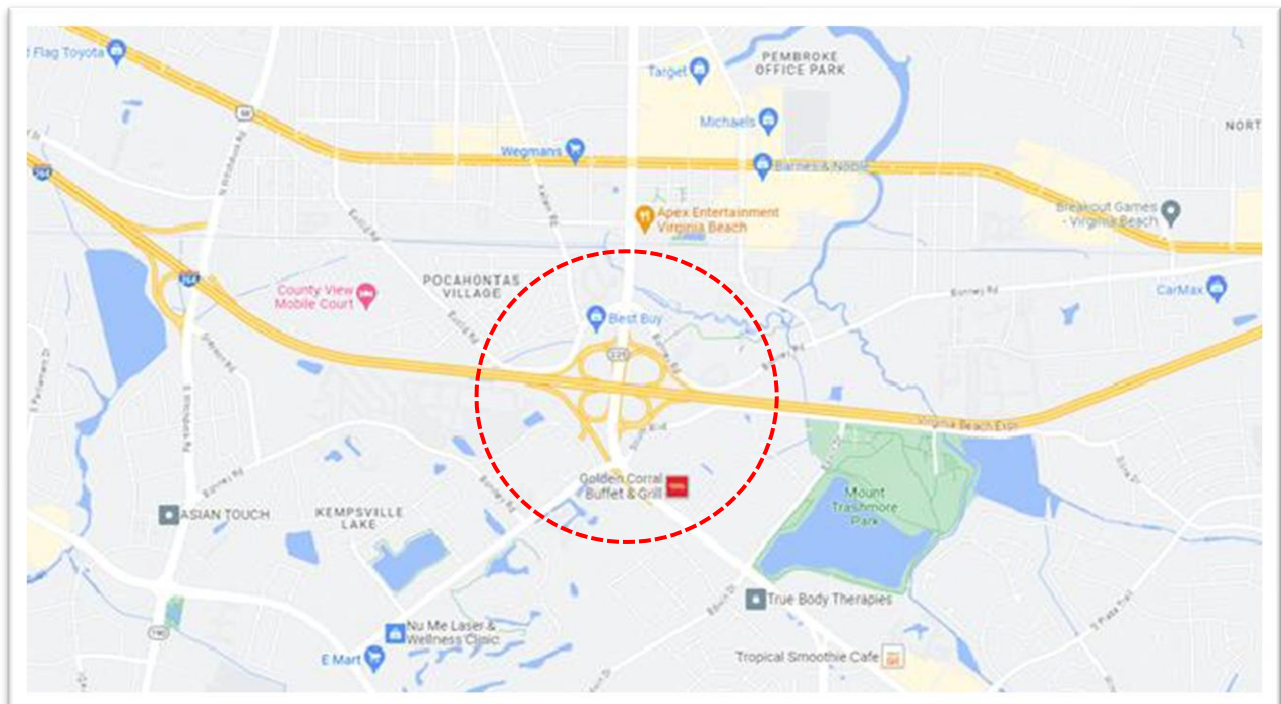
Framework Document	September 2023
Existing Conditions Analysis	December 2023
Future Design Year Volumes	January 2024
Tier 1 Concept Development & Screening	June 2024
Tier 2 Final Alternatives Summary and Selection	December 2024
Project Prioritization/Phasing Memo	March 2025
Study Completion	July 2025
Schedule Status	On Schedule

Enabling Funding

HRTAC	\$ 1,250,000
State/Federal	\$ _____
	\$ 1,250,000

Study Status:

- Consultant NTP issued July 7, 2023
- VDOT/Consultant meeting held on July 19, 2023 to review next steps forward after receipt of NTP
- Stakeholder meeting occurred August 22, 2023 to discuss study limits and IAR





August 2023
Monthly Project Report
**I-64 HAMPTON ROADS
BRIDGE-TUNNEL
EXPANSION**

Report No. 53
Project No. 0064-M06-032



Table of Contents

1. Executive Summary	1
1.1 Overview	1
1.2 Priorities	1
1.3 Key Updates	2
2. Project Schedule	6
2.1 Schedule Status	6
2.2 Longest Path	6
2.3 Impact Analysis	7
3. Project Budget	9
3.1 Overall Budget	9
3.2 Design-Build Contract Cost Status	11
3.3 Budget by Funding Source	12
3.4 Contingency	13
4. Environmental	16
5. Construction	17
5.1 Construction Area 1: Landside Roadways	18
5.2 Construction Area 2: Marine Trestle Work	19
5.3 Construction Area 3: Tunnels and Islands	20
5.4 Construction Area 4: Landside Bridges	21
6. Operations	23
7. Quality	24
8. Safety	25
9. Civil Rights & DBE/SWaM Business Opportunities	26
10. Public Outreach & Media	27

Issue Date: September 7, 2023

Prepared by:

Virginia Department of Transportation

www.hrbtextension.org

1. Executive Summary

1.1 Overview

This report provides an overview of accomplishments and activities for the Hampton Roads Bridge-Tunnel Expansion Project from July 23, 2023 – August 19, 2023. The Design-Builder for the project is Hampton Roads Connector Partners (HRCP), a consortium that includes lead contractors Dragados, Vinci, Flatiron, and Dodin Campenon Bernard, with lead designers HDR and Mott MacDonald.

The current reporting period is aligned with HRCP's fiscal-month structure, on which the project's design-build schedule updates and invoiced construction progress are based. Reporting periods typically close on the Saturday on or preceding the 24th of each month.

During this reporting period, project accomplishments included the following:

- South Island Progress:
 - Completed installation of concrete batch plant and pugmill.
 - First exterior wall concrete placement complete.
- Tunnel Progress:
 - Excavated 323.5 ft this period (1040 ft total excavation) for High Occupancy Toll (HT) tunnel.
- North Island Progress:
 - Waterproofing of Cell 1 base slab at 81% complete.
 - Jet grout approach plug at 53% complete.
 - Installation of concrete for first lift of headwall.
- Landside Progress:
 - Completed concrete placement for deck spans 58 – 63 and 63A at Willoughby Bay EB Bridge.
- Marine Progress:
 - North Trestle eastbound piles 80% complete.
 - North Trestle westbound caps 13% complete.
 - South Trestle eastbound beams 57% complete.
 - South Trestle westbound MOT beams 54% complete.

1.2 Priorities

VDOT's priorities for the Project are to achieve the following objectives:

- To provide mobility enhancements and travel-time reliability along the Project corridor.
- To minimize Project impacts on adjacent communities.
- To improve transportation operations and safety throughout the Project corridor.
- To develop public infrastructure in a financially responsible manner.

1.3 Key Updates

Project Schedule

The last approved schedule for the project is Update 48 (data date: July 23, 2023), and the schedule information in this report reflects this update. Schedule 48 was returned Approved as Noted on August 22, 2023.

- Contractual Substantial and Final Completion Dates remain unchanged.
- HRCP's Schedule Update 48 is reporting Substantial Completion on September 18, 2026.
- HRCP's Schedule Update 48 is reporting Final Completion on November 17, 2026.

Project Budget

The project budget summary below now includes all incurred to date costs through August 19, 2023 and does not include forecasted cost outside of the reporting period.

- Project budget overview:

Current total project budget:	\$ 3,935,451,641
Total costs to date:	\$ 1,962,880,478
Remaining project budget:	\$ 1,972,571,163

- Design-build contract overview:

Design-build contract original amount:	\$ 3,299,997,227
Net change orders:	\$ (13,516,147)
Exercised Options:	\$ 73,454,414
Material Price Adjustments to Date:	\$ 3,017,397
Assessed Liquidated Damages (LD):	\$ (939,000)
Design-build contract sum to date:	\$ 3,362,013,891
Expenditures to date:	\$ 1,867,762,761
Remaining design-build contract amount:	\$ 1,494,251,130

- Design-build progress to date:

Project Management:	66.3%
Design:	91.2%
Physical Construction Progress:	37.8%
Overall:	55.6%

Environmental

Environmental updates for this reporting period include:

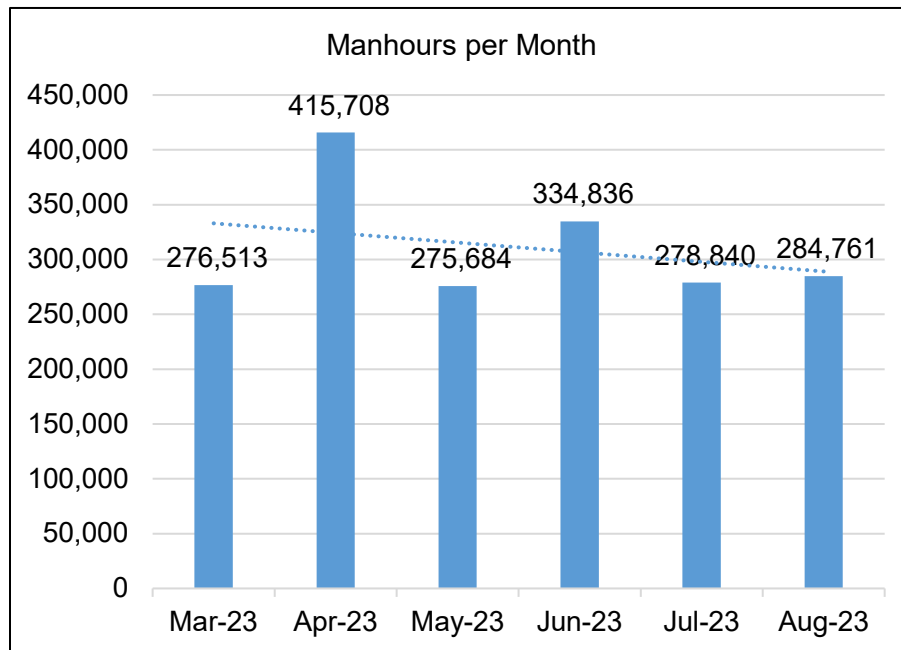
- HRCP received a Notice of Violation (NOV) from Virginia Department of Environmental Quality (DEQ) on July 31, 2023, for a wastewater treatment plant overflow that occurred on South Island on July 9, 2023. HRCP met with DEQ on August 17, 2023 to discuss the corrective action plan related to this NOV. HRCP has hired additional environmental staff for compliance training and auditing environmental commitments.
- VDOT and HRCP implemented joint C-107 inspections for Construction Runoff Control to ensure accurate identification and management of compliance issues.

Construction

Summary progress updates for this reporting period include:

- Landside Roadways
 - Began panel installation for wingwall of retaining wall 103 near Mallory St. Bridge Abutment A.
 - Began panel installation for retaining wall 407 between Bayview Blvd. Bridge Abutment B and Oastes Creek Bridge Abutment A.
- Marine Works
 - Drove piles at North eastbound permanent trestle (10 installed this period).
 - Placed cap at North westbound permanent trestle (1 partial installed this period).
 - Placed beams at South eastbound permanent trestle (60 installed this period).
 - Placed beams at South westbound MOT trestle (16 installed this period).
- Tunnels and Islands
 - Excavated 323.5 ft this period (1040 ft total excavation) for High Occupancy Toll (HT) tunnel.
 - Began removal of thrust frame and temporary rings in South Island launching pit.
 - Installed concrete for exterior wall for South Portal (5% complete).
 - Installed concrete for first lift of headwall at North Island.
- Landside Bridges
 - Completed concrete placements for beam seats at Abutment A and footings at Abutment B at Mallory Street Bridge for Phase 1 bridge replacement.
 - Completed driving piles at Bent 13, 14, 15, and 16 at Willoughby Bay Bridge for westbound widening.
 - Completed concrete placements for footing and columns for Pier 1 at Patrol Road Bridge for eastbound widening.
 - Completed driving piles at Abutment B at Patrol Road Bridge for westbound widening.

The number of construction manhours worked each month is provided by HRCP and is current as of August 31, 2023:



Project Manhours to Date:
8,524,909

Operations

The following operations activities took place during this reporting period:

- New short-term lane closure at Willoughby eastbound and westbound for paving.
- New short-term daily detours at 4th View on-ramp eastbound to facilitate sound wall construction.

Quality

Quality updates for this reporting period include:

- VDOT continues to monitor HRCP's QA and QC material testing. VDOT also performed Independent Testing and Verification Testing on materials in accordance with VDOT requirements and coordinated with VDOT Materials Division for shop inspections as required.
- VDOT continues to engage HRCP in discussions on HRCP's implementation of their Quality Management System Plan (QMSP) and the effectiveness of the plan.

Safety

The following safety performance indicator information is provided by HRCP and is current as of August 31, 2023:

- Total Recordable Incidence Rate: 1.64 (National Average: 2.5)
- Lost Time Incidence Rate: 0.26 (National Average 1.6)

Civil Rights & DBE/SWaM Business Opportunities

HRCP has awarded **344** subcontracts, subconsultant agreements, and purchase orders to certified DBE/SWaM firms on the project. These contract awards represent a total of **\$540.7 million** to certified DBE/SWaM firms.

Public Outreach & Media

Public outreach and project media updates provided by VDOT and HRCP for this reporting period include:

- Project leadership presented in collaboration with Chesapeake Bay Bridge-Tunnel leadership to Women's Transportation Seminar and Design-Build Institute of America.
- July/August HRBT Project Newsletter was published.

2. Project Schedule

2.1 Schedule Status

The following table depicts key milestone dates for the project and has been updated as of the current approved schedule. The last approved schedule for the project is Update 48 (data date: July 23, 2023), and the schedule information in this report reflects this update. Contractual Substantial and Final Completion dates remain unchanged.

	Contract Requirement	July 2023 Schedule	Actual
NTP		Sep 11, 2020	Sep 11, 2020
Substantial Completion	Sep 1, 2025	Sep 18, 2026	
Final Completion	Nov 1, 2025	Nov 17, 2026	

2.2 Longest Path

The longest path/critical path in Project Schedule Update 48 is driven by the following activities:

- TBM drive in High Occupancy Toll Tunnel
- TBM U-Turn on North Island
- TBM drive in General Purpose Tunnel
- TBM disassembly in south pit
- General Purpose Tunnel Interior Fit Out – Section 8
- General Purpose Egress Corridor – Fire Life Safety System
- Commissioning – General Purpose Tunnel – Functional Testing
- Commissioning – High Occupancy Toll and General Purpose Operational Testing
- Commissioning – Tunnel, Buildings, Roadways, and Trestles Integration Testing
- ITT Reversal
- Substantial Completion

2.3 Impact Analysis

The following work elements have been identified as near critical, meaning there is less than one month of float in Schedule Update 48. VDOT and HRCP are closely monitoring these elements of work as they could affect schedule performance if they are not addressed diligently.

South Portal

- South Portal – Rectilinear Approach Capping Beams – Phase 3
- South Portal – Rectilinear Approach Permanent Structures
- South Portal Cell 1 & 2 Permanent Structures – Exterior Walls, Interior Walls & Slabs, Roof Slabs

South Island

- South Island – Slurry Treatment Plant – Spoil Walls
- South Island – Additional Conveyor and Quay Mooring Piles and Fenders
- South Island – Temporary Private Utilities (Verizon & VDOT/Cox)
- South Island Buildings – Ventilation Building, Inspection Booths, Generator Building, and Fuel & Water Tanks

Tunneling

- Tunneling – Final – Gantry 4 Assembly
- General Purpose Tunnel – Interior Structures Construction

North Portal

- North Portal – Cell 2 Excavation
- North Portal Cell 1 & 2 Permanent Structures – Exterior Walls, Interior Walls & Slabs
- North Portal – Rectilinear Approach Permanent Structures

North Island

- North Island Buildings – Generator, Fuel & Water Tanks, Inspection Booth, Garage Building, Ventilation Building, and Flood Gate House Building
- North Island Restoration – Utilities, Paving, Civil Finishes, Signage and Pavement Markings

Roadway and Land Bridges

- Segment 1 Phase 1 – I-64 North Shore Roadway, Waterline Relocation, Drainage, and RW108
- Segment 1 – Shore Feeder Medium Voltage Cable Relocation
- Segment 1, 3, 3b, 3d, & 4 – ITS – Lane Use Signals, Overhead Sign Structure, Dynamic Messaging Sign, and Overheight Detector
- Segment 3b Phase 1, 2, 2A, 3A, 4 – I-64 Willoughby Spit PV Drains/Ground Improvement, Retaining Walls, Drainage, Roadway, and Temporary Lighting
- Segment 3b – Rockfish Substation
- Segment 3b Phase 4 – 13th Avenue Ramp C & F Construction
- Segment 3d Phase 1, 2, 2A, 3 & 4 – Willoughby Bridge to Mason Creek – Median Widening, Retaining Walls, Storm Drainage and Roadway

- Segment 3d 4th View Ramp H & I – Surcharge and Ramp Construction
- Segment 4 Phase 2, 2A, 3, 4, 4A – Norfolk to Navy – Median Widening, Retaining Walls, Storm Drainage, and Roadway
- Mallory Bridge – Phase 1 & 2
- 13th Avenue Bridge – EB Abutment A
- Willoughby Bay Bridge – Eastbound/Westbound Superstructure Construction, Westbound Rehabilitation

Trestles

- North Trestle Utilities – Eastbound Temporary MV/ITS Utility and Permanent ITS/SCADA/Fire Alarm, Westbound Conduits & Hangers and Permanent Wet Utilities
- North Trestle Eastbound – Zone 1 – Abutment A, Superstructure Construction
- North Trestle Westbound – Zone 7, 8, 9, and 10 – Substructure/Superstructure Construction
- North Trestle – Eastbound and Westbound Demolition
- South Island Expansion – Marine Works, Land Works, and Island Expansion
- South Trestle Utilities – Eastbound Private Utility Relocation and Westbound Private Utilities and ITS/SCADA/Fire Alarm System
- South Trestle – Eastbound Zone 1, 2, and 5 Superstructure Construction
- South Trestle – Westbound Zone 7, 8, and 9 – Abutment D, Substructure and Superstructure Construction
- South Trestle – Existing Trestle Demolition

Commissioning and Integration

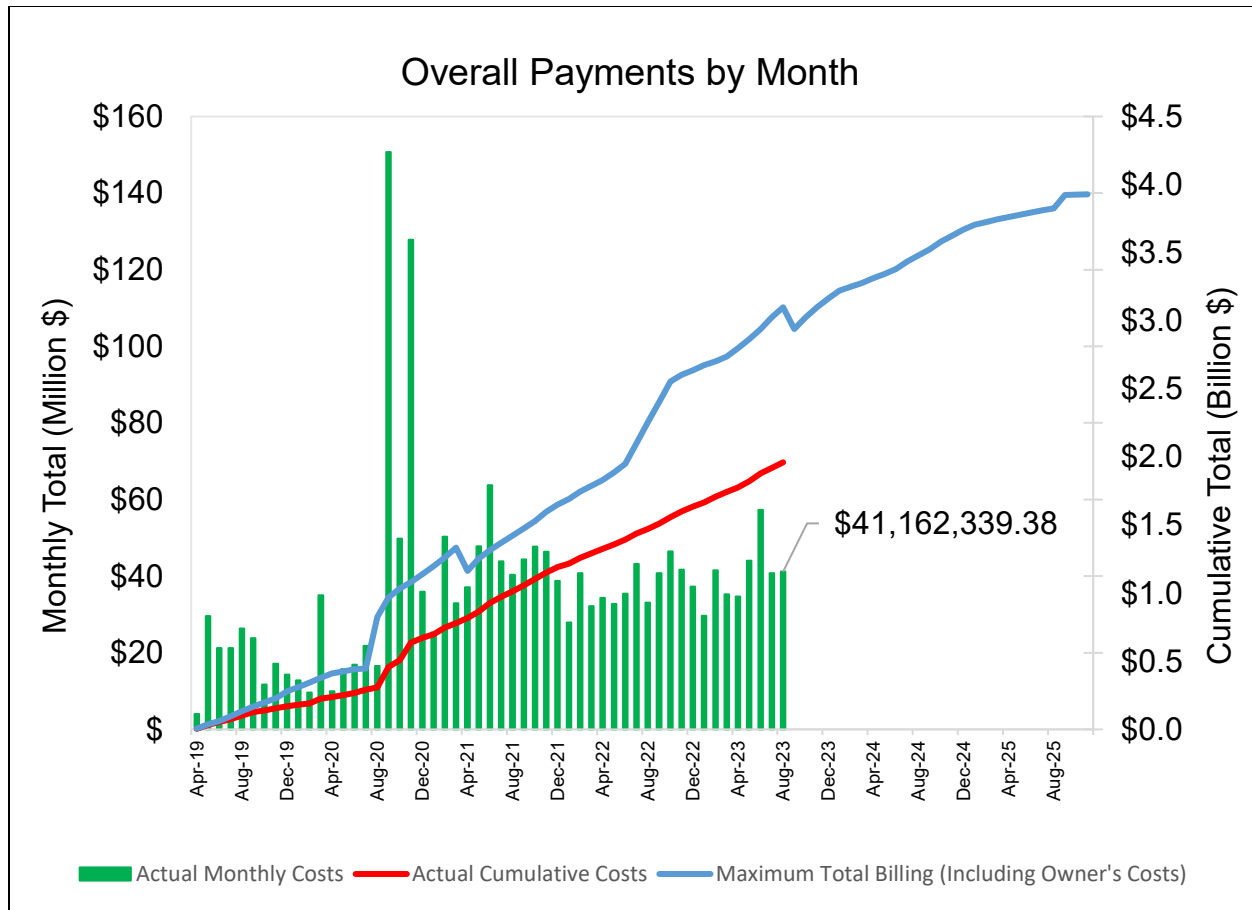
- General Purpose Tunnel – Functional Testing – Low Point Pump Station Drainage, Fire Suppression and Detection, Booster Fans, Lighting
- North Island Buildings – Functional Testing – Mechanical Pressurization
- South Island Buildings – Functional Testing – Electrical Medium Voltage/Low Voltage
- Commissioning – Operational Testing – General Purpose Fire System, General Purpose Medium Voltage/Low Voltage, General Purpose Drainage System

3. Project Budget

3.1 Overall Budget

The overall budget outlined in this report is based on the terms and conditions of Article 3 (Project Funding) in the Project Agreement for Funding and Administration (PAFA). The cost curve is based on Exhibit 6 of the Comprehensive Agreement (monthly maximum cumulative compensation amount).

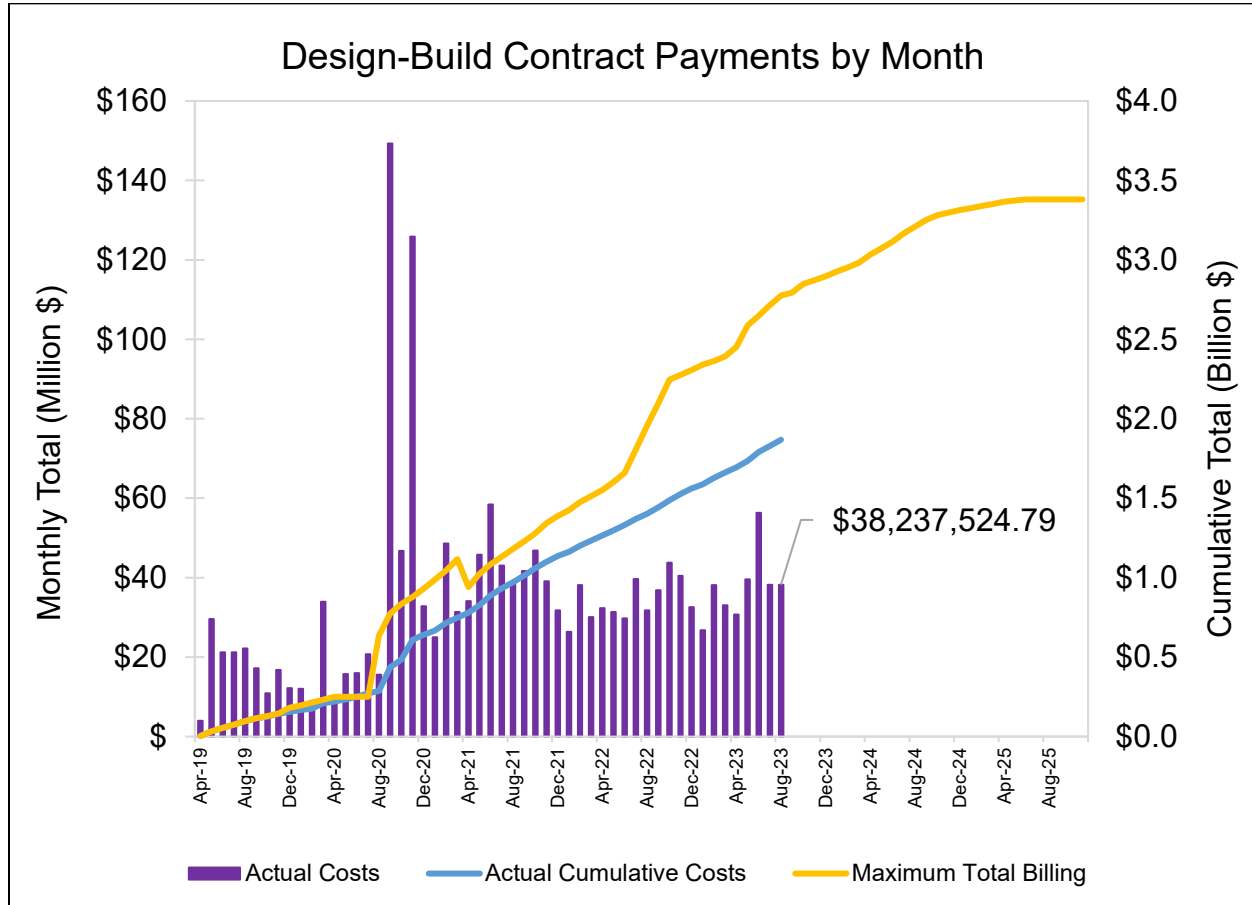
	Amount Spent this Period:	Total Spent to Date:	Original Total Budget:	Total Remaining Budget:	Percent Spent To-date:
<u>Comprehensive Agreement</u>					
<i>Construction</i>	\$38,237,524.79	\$1,839,791,687.32	\$3,299,997,227.00	\$1,460,205,539.68	55.75%
<u>Owner Costs</u>					
<i>Administration</i>	\$2,181,103.24	\$82,279,971.04	\$122,000,000.00	\$39,720,028.96	67.44%
<i>Right of Way</i>	\$24,265.29	\$8,837,745.01	\$15,000,000.00	\$6,162,254.99	58.92%
<i>No-Excuses Incentive</i>	\$0.00	\$0.00	\$90,000,000.00	\$90,000,000.00	0.00%
<i>Contingency</i>	\$578,552.62	\$27,269,481.03	\$335,000,000.00	\$307,730,518.97	8.14%
<i>Bridge Repair Work Option</i>	\$140,893.44	\$4,701,593.10	\$73,454,413.96	\$68,752,820.86	6.40%
<u>Total</u>	\$41,162,339.38	\$1,962,880,477.50	\$3,935,451,640.96	\$1,972,571,163.46	49.88%



**The Maximum Total Billing showed an adjustment in May 2021 due to the executed Change Order #40 – Update Maximum Cumulative Cost Curve*

3.2 Design-Build Contract Cost Status

The budget and planned cost have been established based on the maximum cumulative compensation amount. For this period, the invoiced expenditures cover the activities noted in this report.



**The Maximum Total Billing showed an adjustment in May 2021 due to the executed Change Order #40 – Update Maximum Cumulative Cost Curve*

3.3 Budget by Funding Source

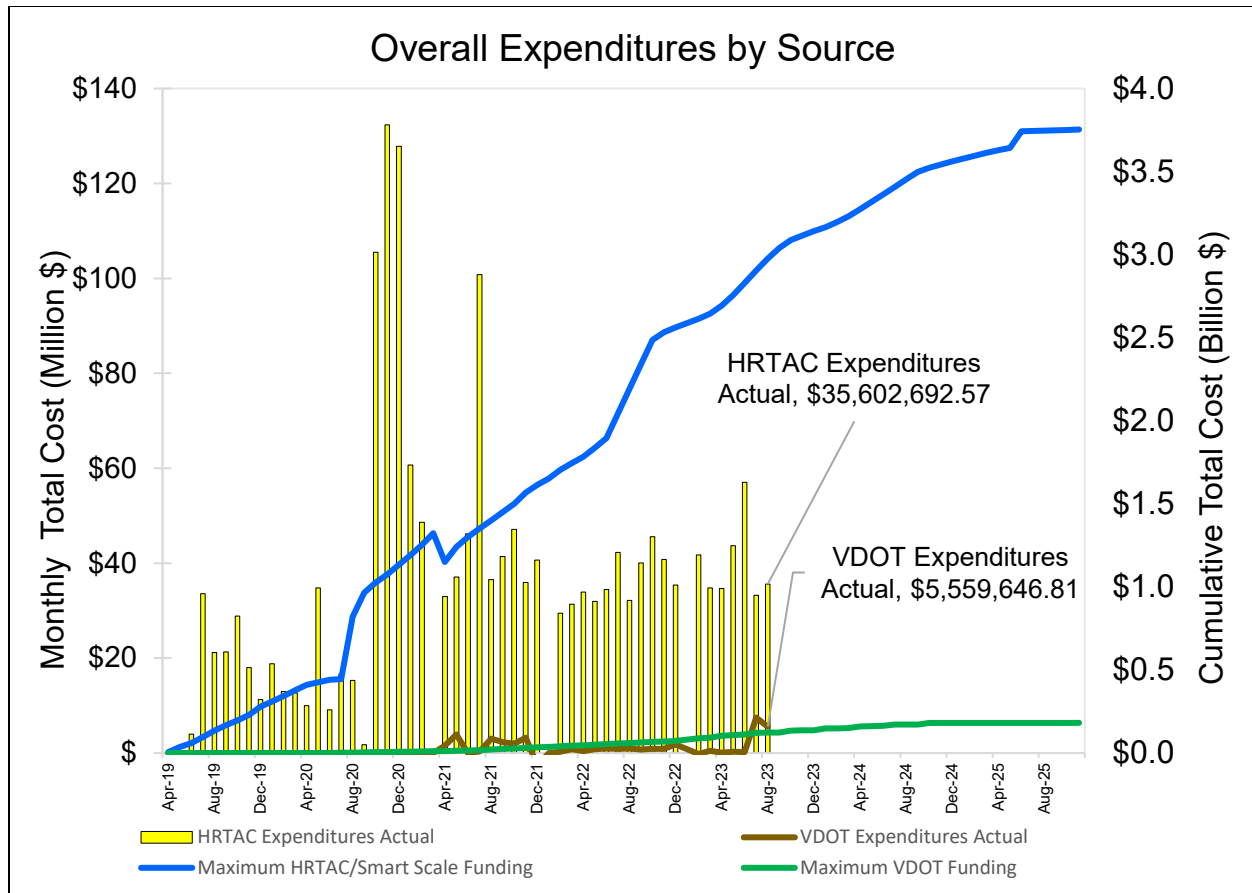
The budget for expenditures by funding source is based on the terms and conditions of Article 3 (Project Funding) and Exhibit 5 of the PAFA. This section outlines planned expenditures of both HRTAC and VDOT funds. The cost curve has been developed based on the monthly maximum cumulative compensation amount in the Comprehensive Agreement and will be updated as HRCF refines its design, construction means-and-methods, activity sequences, and project resourcing.

3.3.1 HRTAC and Smart Scale

	Amount Spent this Period:	Total Spent to Date:	Original Total Budget:	Total Remaining Budget:	Percent Spent To-date:
<u>Comprehensive Agreement</u>					
<i>Construction</i>	\$33,049,764.82	\$1,811,117,772.47	\$3,204,569,251.00	\$1,393,451,478.53	56.52%
<u>Owner Costs</u>					
<i>Administration</i>	\$2,076,739.71	\$79,764,898.04	\$118,472,054.00	\$38,707,155.96	67.33%
<i>Right of Way</i>	\$24,265.29	\$8,837,745.01	\$15,000,000.00	\$6,162,254.99	58.92%
<i>No-Excuses Incentive</i>	\$0.00	\$0.00	\$90,000,000.00	\$90,000,000.00	0.00%
<i>Contingency</i>	\$451,922.75	\$26,016,682.25	\$325,428,276.00	\$299,411,593.75	7.99%
<u>Total</u>	\$35,602,692.57	\$1,925,737,097.77	\$3,753,469,581.00	\$1,827,732,483.23	51.31%

3.3.2 VDOT

	Amount Spent this Period:	Total Spent to Date:	Original Total Budget:	Total Remaining Budget:	Percent Spent To-date:
<u>Comprehensive Agreement</u>					
<i>Construction</i>	\$5,187,759.97	\$28,673,914.85	\$95,427,976.00	\$66,754,061.15	30.05%
<u>Owner Costs</u>					
<i>Administration</i>	\$104,363.53	\$2,515,073.00	\$3,527,946.00	\$1,012,873.00	71.29%
<i>Right of Way</i>	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
<i>No-Excuses Incentive</i>	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
<i>Contingency</i>	\$126,629.87	\$1,252,798.78	\$9,571,724.00	\$8,318,925.22	13.09%
<i>Bridge Repair Work Option</i>	\$140,893.44	\$4,701,593.10	\$73,454,413.96	\$68,752,820.86	6.40%
<u>Total</u>	\$5,559,646.81	\$37,143,379.73	\$181,982,059.96	\$144,838,680.23	20.41%



3.4 Contingency

3.4.1 Contract Changes

	Description	Date	Value	Time
CO-1	VDOT's Acquisition of Willoughby Staging Area	2/11/2020	\$ (3,000,000.00)	0 days
CO-2	Minor Revisions to Technical Requirements	3/18/2020	\$ -	0 days
CO-3	Tunnel Approach Structure Support of Excavation Requirements Refinement	4/28/2020	\$ -	0 days
CO-4	Dispute Resolution Board (DRB) Allowance	5/12/2020	\$ 200,000.00	0 days
CO-5	North Island Armor Stone Value Engineering Change Proposal (VECP)	4/28/2020	\$ (2,011,117.50)	0 days
CO-6	Exit Ramp at Bayville Avenue	5/29/2020	\$ 46,906.29	0 days
CO-7	Minor revisions to the Technical Requirements	7/16/2020	\$ -	0 days
CO-8	Zero Spread Drainage	9/16/2020	\$ 3,239,212.24	0 days
CO-9	Roadway and Bridge Scope Validation Issues	9/4/2020	\$ 15,516,248.00	0 days
CO-10	Slurry Walls as Permanent Structures	8/28/2020	\$ -	0 days
CO-12	Road and Bridge Lighting Requirements	8/27/2020	\$ 2,495,000.00	0 days
CO-13	Bridge Repair Work-Exercise Option	10/9/2020	\$ 73,454,413.96	0 days
CO-14	Trestle Barrier Form Liner Elimination	7/29/2020	\$ (99,571.80)	0 days
CO-15	South Island Ground Improvement Value Engineering Change Proposal (VECP)	9/17/2020	\$ (5,338,000.00)	0 days

CO-16	Navy Security Fencing Design	7/15/2021	\$ 150,000.00	0 days
CO-17	Westbound ITT Reduced Instrumentation	10/30/2020	\$ (184,277.50)	0 days
CO-18	Willoughby Bay Bridge Barriers	9/10/2020	\$ -	0 days
CO-19	GeoPak Version Software Updates	8/3/2020	\$ -	0 days
CO-21	Material Price Adjustment for Asphalt Materials	2/26/2021	\$ -	0 days
CO-22	South Island Asbestos Conduits	9/16/2020	\$ 81,973.93	0 days
CO-23	Island & Tunnel Baseline Monitoring Requirements	7/22/2020	\$ -	0 days
CO-24	Construction Water Supply	9/10/2020	\$ (609,157.27)	0 days
CO-25	Solids Handling Pumps Requirements	11/12/2020	\$ -	0 days
CO-26	Mass Notification Independent System Requirements	11/12/2020	\$ -	0 days
CO-27	Fixed Fire Fighting System Requirements	11/16/2020	\$ -	0 days
CO-28	HOT Lane Shoulder Width	3/29/2021	\$ 2,950,000.00	0 days
CO-30	Willoughby Bay Bridges Fender & Lighting Replacement	2/12/2021	\$ 1,495,000.00	0 days
CO-31	Builder's Risk Insurance	10/21/2021	\$ 1,500,000.00	0 days
CO-32	VCU Fisheries and SAV Mitigation Plan	4/16/2021	\$ (1,042,144.00)	0 days
CO-33	Tunnel Finishes Height	12/18/2020	\$ -	0 days
CO-38	H-Piles in Aggressive Soils	12/18/2020	\$ (47,541.00)	0 days
CO-39	Re-use of Existing Drainage Pipes	4/20/2021	\$ (100,984.25)	0 days
CO-40	Update Maximum Cumulative Cost Curve	7/15/2021	\$ -	0 days
CO-41	Wetland Mitigation Costs	4/26/2021	\$ 3,503,400.00	0 days
CO-42	Navy Gate 22 Drainage Design and Construction	8/19/2022	\$ 1,524,940.16	0 days
CO-43	Hybrid Trestle Beam Design	7/2/2021	\$ -	0 days
CO-44	SCADA Control of Deluge Valves	7/27/2021	\$ -	0 days
CO-45	HRCP Project Executive/Representative Change	5/24/2021	\$ -	0 days
CO-46	Tunnel Sprinkler Heads Material Change	7/28/2021	\$ -	0 days
CO-47	Evans Street Approach Slab Settlement Repair	6/22/2022	\$ 34,082.83	0 days
CO-48	Scope Reduction – City of Hampton	8/24/2022	\$ (6,072,941.31)	0 days
CO-49	HRCP Senior Representative Change	7/2/2021	\$ -	0 days
CO-50	Change in Precast Form Tolerance & Curing Methods	1/10/2022	\$ -	0 days
CO-53	Sound Wall Quantity Reconciliation	12/6/2021	\$ (16,561,217.63)	0 days
CO-54	4th View Interchange Design and Construction Drainage	8/17/2022	\$ 984,598.45	0 days
CO-55	HREL Overlap Scope Change in Norfolk - Proposal Costs	8/12/2022	\$ 157,237.34	0 days
CO-56	Building Code Changes - Design	10/21/2022	\$ 2,186,150.00	0 days
CO-57	Design-Builder's Senior and Representative Changes	1/11/2022	\$ -	0 days
CO-58	Scope Reduction – City of Norfolk	5/16/2023	\$ (18,739,670.82)	0 days
CO-59	Fisheries and SAV Mitigation Plan - VCU	6/16/2022	\$ (70,238.22)	0 days
CO-60	Navy Fence (remaining design costs)	8/17/2022	\$ 180,142.36	0 days
CO-61	HRELN Tie-In Zero Drainage Spread	11/29/2022	\$ 2,965,469.69	0 days
CO-62	SIP Forms for Marine Bridges	6/28/2022	\$ -	0 days
CO-64	Tolling Infrastructure Proposal Costs	10/21/2022	\$ 645,242.40	0 days
CO-65	Snowplowable Raised Pavement Markers (SRPMs)	3/3/2023	\$ 256,174.09	0 days
CO-68	Buoyancy Calculations	3/3/2023	\$ -	0 days
CO-69	Change of Department's Senior Representative	4/6/2023	\$ -	0 days

CO-70	Reuse of Existing Pipe 29-26 to 29-31	7/26/2023	\$ (117,734.20)	0 days
CO-71	Addendum to WO-24 Water Supply Line	4/25/2023	\$ -	0 days
CO-72	Bay Avenue Approach Ramp	6/29/2023	\$ 120,053.43	0 days
CO-74	South Island – Asbestos Pipes	7/7/2023	\$ 128,883.51	0 days
TOTAL			\$ 59,820,533.18	0 days

3.4.2 Material Price Adjustments

This progress period included the following material price adjustments:

Material	Current Amount	Total to Date	Material Price Adjustment Through
Asphalt	\$ 0.00	\$ 79,733.71	June 2023
Fuel	\$ 7,034.75	\$ 339,160.94	June 2023
Steel	\$ 263,832.29	\$ 2,598,502.15	February 2023
Total	\$ 270,867.04	\$ 3,017,396.80	

4. Environmental

The following environmental management activities occurred during this reporting period:

Permits:

- HRCP received a Notice of Violation (NOV) from Virginia Department of Environmental Quality (DEQ) on July 31, 2023 for a wastewater treatment plant overflow that occurred on South Island on July 9, 2023. HRCP met with DEQ on August 17, 2023 to discuss the corrective action plan related to this NOV.
- HRCP received a warning letter from DEQ on July 31, 2023 for emissions observed during DEQ's July 26, 2023 inspection of the Slurry Treatment Plant.
- DEQ posted a Public Notice (through August 31, 2023) for a Consent Order addressing a discharge from HRCP's wastewater treatment plant in April 2023.
- HRCP initiated an update of the Wastewater Treatment Plant Operations & Maintenance Manual, as requested by DEQ, and will forward the revised manual to DEQ.
- HRCP conducted additional in-house environmental compliance training with work crews from landside, islands, and trestle construction areas.

Marine Mammal Protection:

- No new activities.

Bird Mitigation:

- HRCP continued patrolling with dogs on South Island, North Island, and Willoughby Spit.

Programmatic Agreement:

- No new activities.

Archeological Discoveries:

- No new activities.

Protected Species:

- No new activities.

5. Construction

The figure below illustrates a map of the project corridor. The project is further categorized into four construction areas.

- Construction Area 1 is composed of landside road work.
- Construction Area 2 is composed of marine work, including the North Trestle, South Trestle, and island expansions.
- Construction Area 3 is composed of tunnel and island site work.
- Construction Area 4 is composed of landside road and bridge work.



5.1 Construction Area 1: Landside Roadways

I-64 (Segment 1):

- Drainage work in I-64 median in Hampton.
- Phased installation of retaining wall 105 at Mallory Street Bridge Abutment B.
- Began panel installation of retaining wall 103 wingwall at Mallory St. Bridge Abutment A.

I-64 (Segment 3):

- Completed placement of open-drainage and base asphalt layers in median between 15th View St. and 13th View St.
- Installed drainage adjacent to Bayville/13th View St Bridge for eastbound widening.
- Completed installation of surcharge for retaining wall 308 adjacent to Willoughby Bay Bridge Abutment B.
- Installed sound wall 3-3 along I-64 eastbound between 4th View St. and Mason Creek Rd.
- Completed remediation work at retaining wall 311 between 4th View St. and Mason Creek Rd.
- Graded for permanent ditches between 4th View St. and Mason Creek Rd. for eastbound widening.

I-64 (Segment 4):

- Installed drainage adjacent to 1st View St. Bridge for eastbound widening.
- Began panel installation for retaining wall 407 between Bayview Blvd. Abutment B and Oastes Creek Abutment A.
- Began drainage work within the retaining wall 407 area between Bayview Blvd. Abutment B and Oastes Creek Abutment A.



◀ **Sound Wall 3-3**
Panel installation on
I-64 between 4th
View St. and Mason
Creek Rd.

5.2 Construction Area 2: Marine Trestle Work

North Trestle:

- **Eastbound Trestle**
 - 10 piles driven during this period (204 out of 256 piles driven).
- **Westbound Trestle**
 - Partial cap placed during this period (6 out of 46 total caps placed).

South Trestle:

- **Eastbound Trestle**
 - 60 beams placed during this period (395 out of 698 total beams placed).
 - 3.5 decks placed during this period (5.5 out of 53 total decks placed).
 - 3 piles driven during this period (318 out of 465 total piles driven).
- **Westbound Trestle MOT**
 - 4 caps placed during this period (20 out of 24 total caps placed).
 - 16 beams placed during this period (44 out of 81 total beams placed).



◀ **North Trestle
Westbound**
Placement of partial
precast cap onto
foundation piles

5.3 Construction Area 3: Tunnels and Islands

South Island:

- 5% complete for South Portal exterior walls.
- Completed installation of concrete batch plant and pugmill.

North Island:

- 53% complete for jet grout plug at approach section (655 of 1240 total columns).
- 81% complete for waterproofing at Cell 1 base slab of receiving shaft.
- 26% complete for headwall concrete placement at Cell 1 of receiving shaft.
- 12% complete for waterproofing Cell 1 walls.
- 7% complete for Cell 2 excavation.

Tunnel:

- Began removal of thrust frame and temporary rings in South Island shaft as part of scheduled pause in tunneling for shaft reconfiguration.
- 77% complete for precast tunnel segment liner production.
- 13.1% complete for High Occupancy Toll (HT) tunnel excavation (1,040 ft out of 7940 total ft excavated).
- 49 concrete tunnel rings installed this period (150 out of 1194 total rings installed).



◀ **HT Tunnel**
Steel rings and thrust frame removed during shaft reconfiguration

Total Segments Required:	Conforming Segments Cast To-Date:	Percentage Complete:
21,492	16,549	77%

5.4 Construction Area 4: Landside Bridges

Mallory St Bridge:

- Completed concrete placements for Abutment A beam seats and Abutment B footing for Phase 1 bridge replacement.

Bayville/13th View Bridge:

- Completed partial backwall reconstruction and deck slab extensions at Abutments A and B of existing eastbound bridge.
- Completed interior approach slab widenings at Abutments A and B of existing eastbound bridge.

Willoughby Bay Bridge:

- Continued installation of deck forms and overhangs for eastbound widening.
- Continued installation of diaphragm rebar and formwork for eastbound widening.
- Continued repair/rehabilitation of existing eastbound bridge.
- Completed placement of deck spans 58 - 63 and 63A for eastbound widening.
- Completed pile driving at Bents 13, 14, 15, and 16 for westbound widening.

Mason Creek Bridge:

- Continued repair/rehabilitation of existing eastbound and westbound bridges.
- Continued installation of forms and rebar for backwall of Abutment A for eastbound widening.

1st View Street Bridge:

- Began grading for slope protection for eastbound widening.

Bay Avenue Bridge:

- Completed phase 2A demolition of existing ramp/gore area for eastbound widening.
- Completed temporary trestle installation at existing ramp/gore for eastbound widening.
- Completed concrete installation for Abutment A for eastbound widening.
- Completed reconstruction of beam seat at Bents 22 and 35 for eastbound widening.
- Completed installation of Span 23 girders for eastbound widening.
- Began demolition of mainline parapet and deck overhang for eastbound widening.

Evans St Bridge:

- Continued repair/rehabilitation of existing eastbound bridge.

Bayview Boulevard Bridge:

- Continued repair/rehabilitation of existing eastbound and westbound bridges.

Oastes Creek Bridge:

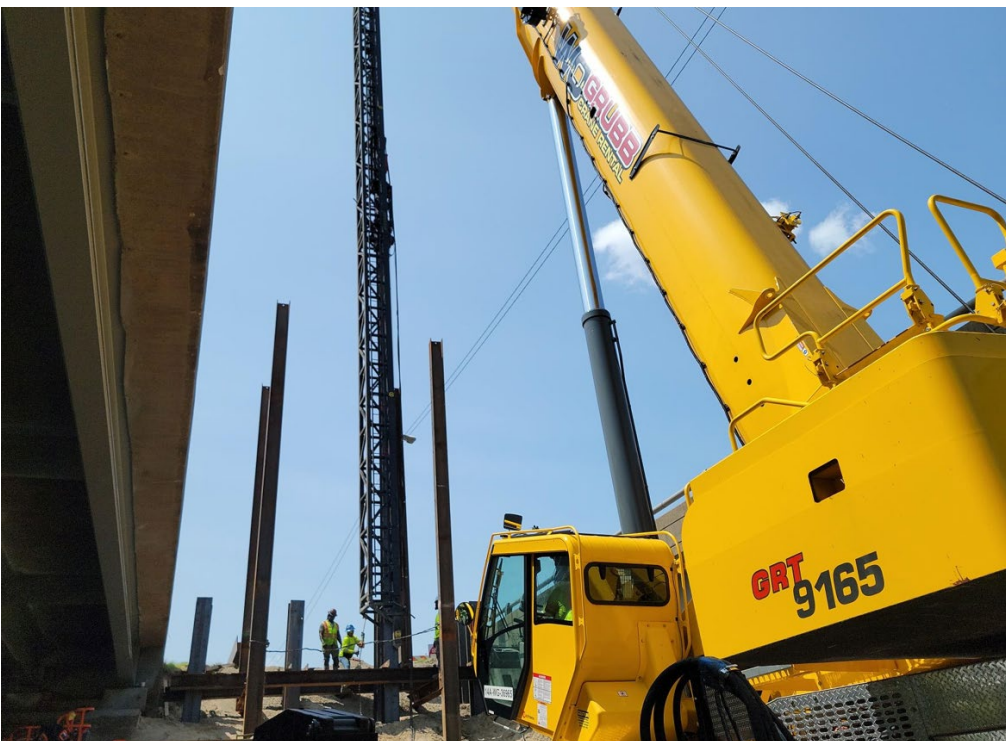
- Continued forming, reinforcing, and placing concrete for diaphragms and bridge deck link slabs for eastbound widening.
- Continued repair/rehabilitation of existing eastbound bridge.

Patrol Road Bridge:

- Completed driving piles at Abutment B for westbound widening.
- Completed concrete placements for footing and columns for Pier 1 for eastbound widening.



◀ **Willoughby Bay Bridge**
Westbound
Pile driving at Bent 16



◀ **Patrol Rd Bridge**
Westbound
Pile driving at Abutment B

6. Operations

Operations activities include shoulder and lane closures, creation and maintenance of Intelligent Transportation System (ITS) architecture, other maintenance within the corridor, coordination with existing VDOT Operations, and communication with the Hampton Roads Harbor Tunnels (HRHT) facility staff. The following operations activities occurred during this reporting period:

Short-Term Lane Closures:

- Willoughby Bay Bridge, North Trestle, and South Trestle eastbound to facilitate ongoing beam placement as well as concrete placement for piles, caps, and decks.
- North Trestle and South Trestle westbound for concrete pours.
- South Trestle for temporary conduit installation.
- Willoughby eastbound and westbound for paving.
- Striping maintenance and pavement marker removal throughout project corridor.
- South Trestle for ITS power and communication relocation.

Long-Term Lane Closures:

- Bay Ave. in Norfolk to facilitate staging-area access for widening Oastes Creek Bridge.
- Bayview Blvd. in Norfolk and Mallory St. in Hampton to facilitate bridge widening.
- West Ocean Ave. in Norfolk traffic shift to facilitate bridge widening.
- 4th View St. in Norfolk traffic shift to facilitate bridge widening.
- Patrol Rd. in Norfolk traffic shift to facilitate bridge rehabilitation and widening.
- 13th View St. underpass beneath I-64 reduced to one lane to facilitate utility work. Traffic will be controlled by temporary automatic one-lane, two-way traffic control signal.

Hampton Lane Shifts:

- No new activities.

Norfolk Lane Shifts:

- No new activities.

Detours:

- Short-term daily detours at 4th View onramp eastbound to facilitate sound wall construction.
- Long-term detour at West Evans St. to facilitate bridge widening.
- Long-term detour on 1st View St. to facilitate bridge widening.

Intelligent Transportation System (ITS):

- Relocation of ITS and power at South Island.
- Installation of ITS and private utility conduit on the North Trestle.
- Quarterly Concept of Operations meeting held on August 2, 2023.

Routine Maintenance:

- HRCP performed routine incident management / maintenance operations within corridor.
- HRCP continued removing raised pavement markers throughout corridor.

Power Systems:

- No new activities.

7. Quality

Quality updates for this reporting period include:

Construction Quality Management Plan (CQMP) Updates:

- VDOT reviews CQMP updates as part of final “Released for Construction” (RFC) design packages and “Notice of Design Change” (NDC) packages. There was 1 NDC update reviewed this period. This update included specific testing and inspection plans for the work shown in the corresponding RFC plans and a staffing matrix showing quality assurance and quality control staffing for the work.

Independent Assurance (IA) Testing Activities:

- VDOT continues to monitor HRCP’s QA and QC material testing. VDOT also performed Independent Testing and Verification Testing on materials in accordance with VDOT requirements and coordinated with VDOT Materials Department for shop inspections as required. This testing included oversight of the HRCP precast yard in Chesapeake and Technopref’s precast yard in Cape Charles producing the tunnel lining segments.

Quality Management System Plan (QMSP):

- VDOT continues to engage HRCP in discussions on HRCP’s implementation of their QMSP and the effectiveness of the plan, which is updated quarterly.

Quarterly Updates of Quality Plans:

- HRCP resubmitted the quarterly updates of the Quality Management System Plan (QMSP), Construction Quality Management Plan (CQMP), and the Design Quality Management Plan (DQMP) for the second quarter of 2023. VDOT completed the reviews of these quarterly updates and returned them Approved as Noted.

Material Book Records:

- VDOT conducted a monthly review of the current records, and HRCP is responding to audit comments provided by VDOT. Review of the Material Book records includes confirming that HRCP is completing the proper documentation for Buy America compliance. VDOT has completed the full audit of fourteen volumes of Material Book records and is currently completing the audit of four volumes of the Material Book records.

Routine Quality Activities:

- VDOT’s quality team conducted reviews of written deficiency notices (WDNs), non-conformance reports (NCRs), root cause analyses and dispositions of deficiencies, with 45 NCRs reviewed for concurrence during this period. VDOT conducted reviews of QA and QC records for accuracy and quality issues and coordinated documentation reviews through VDOT’s Material Department. VDOT also continues a review of current construction quality by performing inspections based on VDOT’s Construction Quality Improvement Program (CQIP).

8. Safety

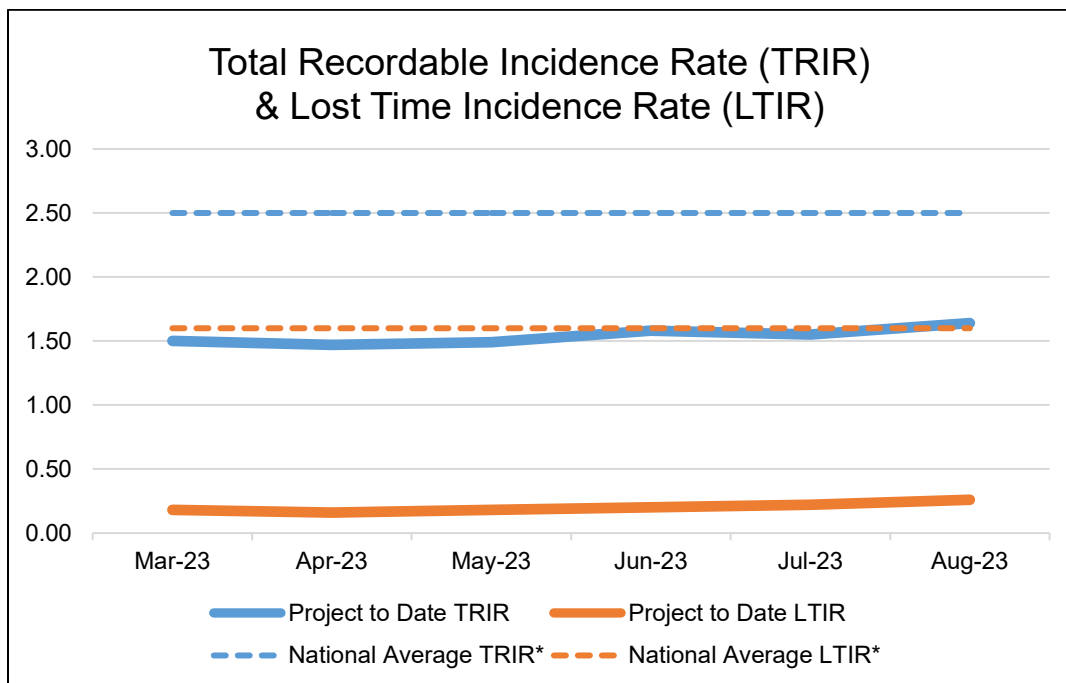
Safety procedures and activities during this reporting period include:

Safety Activities:

- VDOT continued to monitor HRCP's safety program implementation and promote safe work practices throughout the project.

Safety Performance Indicators:

- The following safety performance indicator information is provided by HRCP and is current as of August 31, 2023:



**National averages are from the Bureau of Labor Statistics, US Department of Labor – 2021 Data for Construction Industry, Published November 9, 2022.*

9. Civil Rights & DBE/SWaM Business Opportunities

To date, HRCP has awarded **344** subcontracts, subconsultant agreements and purchase orders to certified DBE/SWaM firms. There was an increase in contract awards for a total of **\$540.7 million** due to newly issued agreements and change orders issued to active DBE/SWaM firms on the project. A total of **\$324 million** has been paid for work completed by DBE/SWaM firms.

Compliance Activities:

- HRCP and VDOT Civil Rights Work Group met on August 15, 2023 for the monthly project and compliance update. Discussion focused on Federal compliance reports due, Title VI evaluations, subcontractor payment delays, a proposed hiring event, and upcoming procurement opportunities.

Workforce Development Activities:

- For this reporting period, HRCP remained at 32 graduates toward a goal of 80 candidates for VDOT/VTCA's On-the-Job Training (OJT) program. There are currently 12 candidates enrolled with 2 pending VDOT's approval.
- Planning continues for the first joint VDOT/HRCP hiring event to promote current and upcoming employment opportunities.

Business Development Activities:

- During this reporting period, business development and outreach activities included:
 - July 27, 2023 – Metropolitan Business League, RVA Linkup Expo & Job Fair
 - August 7, 2023 – North Carolina Institute of Minority Economic Development, Executive Networking Conference 2023
 - August 9, 2023 – Hampton Roads Black Brand, B-Force Capital Acceleration Program Celebration

10. Public Outreach & Media

The following public outreach and project media activities occurred in this period:

Public Outreach

- July 26, 2023 – Project leadership presented to the Exchange Club of Poquoson.
- August 3, 2023 – Project leadership hosted a project site tour for HRTAC members.
- August 4, 2023 – Project leadership hosted a project site tour for HRTAC members.
- August 8, 2023 – Project leadership presented in collaboration with Chesapeake Bay Bridge–Tunnel leadership to Women’s Transportation Seminar and Design-Build Institute of America.
- August 10, 2023 – Project leadership provided an onsite tour to HRTAC members.
- August 10, 2023 – Project team presented to the Exchange Club of Wythe in Hampton.
- August 15, 2023 – Project team presented to The Chamberlin at Fort Monroe in Hampton.
- August 16, 2023 – Project leadership hosted a project site tour to HRTAC members.
- August 17, 2023 – Project leadership attended an outreach event at Music by the Bay at Fort Monroe in Hampton.

Public Materials

- August 10, 2023 – July/August HRBT Project Newsletter

Lane Closures/Advisories

- July 28, 2023 – Weekly Lane Closure Report
- August 4, 2023 – Weekly Lane Closure Report
- August 10, 2023 – July/August Project Newsletter
- August 11, 2023 – Weekly Lane Closure Report
- August 18, 2023 – Traffic Advisory – Closure of W. Bay Ave. On-Ramp
- August 18, 2023 – Weekly Lane Closure Report

Media

- July 24, 2023 – (13 News Now) Examining the state of major bridges in Hampton Roads <https://www.13newsnow.com/article/news/local/examining-state-of-major-bridges-in-hampton-roads-virginia>
- July 27, 2023 – (13 News Now) To drive on the future HRBT Express Lanes, you’ll need a new EZ Pass <https://www.13newsnow.com/article/traffic/vdot-hrbt-expansion-updates-newport-news-city-council>
- July 28, 2023 – (tunnelingonline.com) Tunnel Updates – June 2023 <https://tunnelingonline.com/tunnel-updates-june-2023>
- August 12, 2023 – (WTKR-3) Drone footage shows progress of HRBT Expansion Project <https://www.wtkr.com/news/drone-footage-shows-progress-of-hrbt-expansion-project>

- August 14, 2023 – (ARTBA) Tunnel to the 21st Century
<https://www.artba.org/2023/08/16/virginia-hampton-roads-bridge-tunnel-expansion>

Visit our website to view more information:
www.hrbtextension.org