



## COMMONWEALTH of VIRGINIA

### *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

### **MEETING OF THE COMMONWEALTH TRANSPORTATION BOARD**

We are concerned about your health, and we are committed to do all we can to reduce the risk and spread of novel coronavirus. Governor Ralph Northam declared a state of emergency in Virginia on Thursday, March 12 in response to COVID-19. In light of this action, we have decided to conduct the July 2020 Commonwealth Transportation Board (CTB) meeting using electronic communications in accord with Item 4-0.01.g. of Chapter 1289 (2020 Acts of Assembly), as the COVID-19 emergency makes it impracticable or unsafe to assemble in a single location. The purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operation of the CTB and the discharge of its lawful purposes, duties, and responsibilities.

All board members will be participating remotely. The public may view the meeting via live stream by clicking the "View video" button at the following link: [http://www.ctb.virginia.gov/public\\_meetings/live\\_stream/default.asp](http://www.ctb.virginia.gov/public_meetings/live_stream/default.asp). There will be opportunity for public comment during this meeting. Public comment can be submitted by calling the following telephone number 1-260-297-0062 followed by PIN: 278 842 685# when it is announced that public comment will begin. A caller may be placed on hold until others who have called in earlier have had opportunity to speak.

In the event there is an interruption in the broadcast of the meeting, please call (804) 729-6495.

Should you wish to offer comment regarding how meetings using electronic communications technology compare to traditional meetings when the CTB is physically present, you may complete the FOIA Council's Electronic Meetings Public Comment form appearing at the end of this agenda and submit it to the FOIA Council as described on the Form.

### **AGENDA**

July 14, 2020

9:00 a.m. or upon adjournment of the July 14, 2020 Workshop Meeting

#### **Public Comments:**

#### **Approval of Minutes June 17, 2020**

#### **RIGHT OF WAY & UTILITIES DIVISION:**

***Presenting: Lori Snider  
Division Administrator***

1. Action on Limited Access Control Changes Route 15/29 (James Madison Highway) Fauquier County Located in the Culpeper District.

**LOCATION AND DESIGN DIVISION:**

***Presenting: Susan Keen***  
***Division Administrator***

2. Action on Limited Access Control Changes for Route 286 (Fairfax County Parkway) Widening and the Popes Head Road Interchange, Fairfax County Located in the Northern Virginia District.
3. Action on Limited Access Control Changes for Interstate 64 Hampton Roads Bridge-Tunnel Expansion, Cities of Hampton and Norfolk Located in the Hampton Roads District.

**MAINTENANCE DIVISION:**

***Presenting: Branco Vlacich***  
***Division Administrator***

4. Action on Commemorative of Route 620, Deskins Road, from the intersection of Route 83, Lovers Gap Road, to the road name change to Indian Gap Road in Buchanan County Located in the Bristol District as the “Staff Sergeant Michael Alan Collins Memorial Highway”.

**INFRASTRUCTURE INVESTMENT DIVISION:**

***Presenting: Kimberly Pryor***  
***Division Director***

5. Action on Addition of Projects to the Six-Year Improvement Program for Fiscal Years 2020-2025.
6. Action on FY20-25 Six-Year Improvement Program Transfers For May 23, 2020 through June 19, 2020.

**VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION:**

***Presenting: Steve Pittard***  
***Chief Financial Officer***

7. Action on Addition of Projects to the Six Year Improvement Program for FY20-FY25 for VRE Track Lease Costs.

**LOCAL ASSISTANCE DIVISION:**

***Presenting: Russell Dudley***  
***Division Administrator***

8. Action on Economic Development Access to Xpress Natural Gas, LLC (deallocation) Project ECON-006-646, N501, Appomattox County Located in the Lynchburg District.

**FINANCIAL PLANNING DIVISION:**

***Presenting: Laura Farmer***  
***Chief Financial Officer***

9. Action on Federal Transportation Grant Anticipation Notes Series 2020.

**HAMPTON ROADS DISTRICT:**

***Presenting: Stephen Brich***  
***Commissioner***

10. Action on Designation of HOT Lanes for I-64 Extending from the I-664/64 Interchange in Hampton to the Intersection of I-64 and Jefferson Avenue in Newport News Located in the Hampton Roads District.
11. Action on Adoption of the Hampton Roads Express Lanes Network (HREL Network) Concept of Operation and Approval of the Master Tolling Agreement with the Hampton Roads Transportation Accountability Commission for Tolling on the HREL Network Located in the Hampton Roads District.

**SCHEDULING AND CONTRACT:**

***Presenting: Harold Caples***  
***Assistant State Construction Engineer***

12. Bids.

**NEW BUSINESS:**

**ADJOURNMENT:**

###



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
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*Agenda item #1*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By:   Seconded By:   Action:**

**Title: Limited Access Control Changes  
Route 15/29 (James Madison Highway)  
Fauquier County**

**WHEREAS**, Route 15/29 (James Madison Highway) and Route 17 Interchange in Fauquier County were designated as a Limited Access Highway by the Commonwealth Transportation Board (CTB) on June 17, 1999; and

**WHEREAS**, in connection with State Highway Project 0015-030-117, RW-201, the Commonwealth acquired certain limited access control easements from William B. Bayne, Jr, et al., by Certificate dated March 17, 2008, recorded in Deed Book 1290, Page 2476, and concluded by Order dated November 30, 2012, in Deed Book 1414, Page 4; from J.K. Development, LLC, by Certificate dated April 2, 2008, recorded in Deed Book 1292, Page 1134, and concluded by Order dated September 9, 2009, recorded in Deed Book 1327, Page 2497; and from Pangiotis L. Lindarkis, et al., by Deed dated June 20, 2008, recorded in Deed Book 1301, Page 2175; all being recorded in the Office of the Clerk of Circuit Court of the County of Fauquier; and

**WHEREAS**, VVA – Opal, LLC has requested a break in limited access control along Route 15/29 (James Madison Highway) to construct a commercial entrance to serve as right-in/right-out access to and from their planned convenience store and gas station, Royal Farms, onto the existing limited access right of way of Route 15/29 (James Madison Highway), approximately 351 feet south of the Route 687 (Opal Road) and Route 15/29 (James Madison Highway) intersection, which requires the closure of the two existing entrances on Route 15/29 (James Madison Highway) and a third entrance on Route 687 (Opal Road); and

**WHEREAS**, the requested break in limited access control is 118.49 feet in length along the proposed limited access control line of the southbound lane of Route 15/29 (James Madison Highway), between stations 745+02.06 (Route 15/29 SBL centerline) and 746+20.55 (Route 15/29 SBL centerline), is shown on Attachment A and on Sheet 6 of the plans for State Highway Project 0015-030-117, RW-201; and

**WHEREAS**, the requested extension of the proposed limited access control along Route 15/29 (James Madison Highway) and Route 687 (Opal Road), between station 747+21.84 (Route 15/29 SBL centerline) and station 303+43.90 (Route 687 centerline), is shown on Attachment A, and on Sheets 6,7, and 7B of the plans for Station Highway Project 0015-030-117, RW-201; and

**WHEREAS**, the County of Fauquier, by resolution 19-079 dated June 13, 2019, endorses the limited access control changes (LACCs); and

**WHEREAS**, the Virginia Department of Transportation's (VDOT's) Culpeper District has determined, with the Chief Engineer concurring, that the proposed break in the limited access control of Route 29/15 will have minimal impact on the operation of the Route 15/29 (James Madison Highway) right of way; and that the proposed LACCs are appropriate from a safety and traffic control standpoint based upon a Global Traffic Analysis, dated March 20, 2020, prepared by Kittelson & Associates, Inc; and

**WHEREAS**, VDOT's Culpeper District has determined the location of the proposed LACCs are not within an air quality maintenance or non-attainment area. In addition, the environmental impact analysis was reviewed and approved by the Culpeper District and there will be no adverse environmental impacts; and

**WHEREAS**, public notices of willingness to hold a public hearing and to receive public comment were posted in the *Fauquier Times* newspaper on May 6, 2020, and May 13, 2020; and

**WHEREAS**, the requestor will be required to convey to VDOT limited access easements along Route 15/29 (James Madison Highway), to close two existing entrances, and along Route 687 (Opal Road), to close one existing entrance; and

**WHEREAS**, compensation shall be paid by the requestor in consideration of the LACCs and the related easements to be conveyed, as determined by the Commissioner of Highways or his designee; and

**WHEREAS**, all right of way, engineering, construction, and necessary safety improvements shall meet all VDOT standards and requirements; and

**WHEREAS**, all costs of engineering and construction, including all necessary safety improvements, will be borne by the requestor; and

Resolution of the Board  
Limited Access Control Changes  
Route 15/29 (James Madison Highway)  
Fauquier County  
July 14, 2020  
Page 3 of 3

**WHEREAS**, the requestor will be required to obtain a land use permit prior to any activity within the Route 15/29 (James Madison Highway) limited access right of way; and

**WHEREAS**, VDOT has reviewed the requested LACCs and determined that all are in compliance with § 33.2-401 of the *Code of Virginia* and that the requirements of 24 VAC 30-401-20 have been met; and

**WHEREAS**, VDOT recommends approval of the LACCs as shown on the attached exhibits.

**NOW, THEREFORE, BE IT RESOLVED**, in accordance with § 33.2-401 of the *Code of Virginia* and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*, that the CTB hereby finds and concurs in the determinations and recommendations of VDOT made herein, subject to the above referenced conditions.

**BE IT FURTHER RESOLVED**, the Commissioner of Highways is authorized to take all actions and execute any and all documents necessary to implement such changes.

#####

**CTB Decision Brief**  
**Route 15/29 (James Madison Highway)**  
**Fauquier County**  
**Limited Access Control Changes**

**Issue:** VVA – Opal, LLC, has requested a break in limited access control along Route 15/29 (James Madison Highway) to construct a commercial entrance to serve as direct access to and from their planned convenience store and gas station, Royal Farms, onto the existing limited access right of way of Route 15/29 (James Madison Highway), approximately 351 feet south of the Route 15/29 (James Madison Highway) and Route 687 (Opal Road) intersection, requiring the closure of two existing entrances on Route 15/29 (James Madison Highway) and a third entrance on Route 687 (Opal Road). These limited access control changes require approval of the Commonwealth Transportation Board (CTB) pursuant to § 33.2-401 of the *Code of Virginia* and 24 VAC 30-401-20 of the *Virginia Administrative Code*

**Facts:**

- Route 15/29 (James Madison Highway) and Route 17 Interchange in Fauquier County was designated as a Limited Access Highway by the Commonwealth Transportation Board (CTB), on June 17, 1999.
- In connection with State Highway Project 0015-030-117, RW-201 the Commonwealth acquired certain limited access control easements from William B. Bayne, Jr, et al., by Certificate dated March 17, 2008, recorded in Deed Book 1290, Page 2476 and concluded by Order dated November 30, 2012, in Deed Book 1414, Page 4; from J.K. Development, LLC, by Certificate dated April 2, 2008, recorded in Deed Book 1292, Page 1134, and concluded by Order dated September 9, 2009, recorded in Deed Book 1327, Page 2497; and from Pangiotis L. Lindarkis, et al., by Deed dated June 20, 2008, recorded in Deed Book 1301, Page 2175; all being recorded in the Office of the Clerk of Circuit Court of the County of Fauquier.
- The requested break in the limited access control is 118.49 feet in length, along the proposed limited access control line of the southbound lane of Route 15/29 (James Madison Highway) between stations 745+02.06 (Route 15/29 SBL centerline) and 746+20.55 (Route 15/29 SBL centerline).
- The requested extension of the proposed limited access control is along Route 15/29 (James Madison Highway) and Route 687 (Opal Road), between station 747+21.84 (Route 15/29 SBL centerline) and station 303+43.90 (Route 687 centerline), as shown on as shown on Attachment A, and Sheets 6, 7, and 7B of the plans for Station Highway Project 0015-030-117, RW-201.
- These changes are not covered by the General Rules and Regulations of the CTB, 24 VAC 30-21, or by the Land Use Permit Regulations, 24 VAC 30-151, thus requiring action by the CTB.
- The written determination of the Chief Engineer regarding this proposed project is attached for your consideration.
- The County of Culpeper, by resolution 19-079 dated June 13, 2019, supports the limited access control changes (LACCs).

- VDOT's Culpeper District has determined, with the Chief Engineer concurring, that the proposed break in the limited access control of Route 15/29 (James Madison Highway) will have no impact on the operation of the Route 15/29 (James Madison Highway) right of way, and the proposed LACCs are appropriate from a safety and traffic control standpoint based upon the Global Traffic Analysis Technical Memorandum, dated March 20, 2020, prepared by Kittelson & Associates, Inc.
- VDOT's Culpeper District has determined the location of the proposed LACCs are not within an air quality maintenance or non-attainment area. In addition, the environmental impact analysis was reviewed and approved by the Culpeper District and there will be no adverse environmental impacts.
- Public notices of willingness for hearings/comment were posted in the *Fauquier Times* newspaper on May 6, 2020 and May 13, 2020; with two comments received.
- Compensation shall be paid by the requestor in consideration of the LACCs and the related easements to be conveyed, as determined by the Commissioner of Highways or his designee.
- Requestor will be required to convey, to VDOT, limited access easements along Route 15/29 (James Madison Highway) and Route 687 (Opal Road).
- All right of way, engineering, construction, and necessary safety improvements shall meet all VDOT standards and requirements.
- All costs of any engineering, construction or safety improvements will be borne by the requestor.

**Recommendation:** VDOT recommends the approval of the proposed LACCs subject to the referenced conditions and facts. VDOT further recommends that the Commissioner be authorized to take all actions and execute all documentation necessary to implement the LACCs.

**Action Required by CTB:** Virginia Code § 33.2-401 requires a majority vote of the CTB approving the recommended LACCs. The CTB will be presented with a resolution for a formal vote.

**Result, if Approved:** The project will move forward as proposed and the Commissioner of Highways will be authorized to take all actions necessary to comply with this resolution.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** Two questions or comments were received, neither of noted any preference for or against the project. The questions or comments were answered/resolved by District staff.





# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

Stephen C. Brich, P.E.  
COMMISSIONER

July 1, 2020

The Honorable Shannon Valentine  
The Honorable Stephen C. Brich, P. E.  
The Honorable Jennifer Mitchell  
The Honorable Jerry L. Stinson II  
The Honorable Mary H. Hynes  
The Honorable Alison DeTuncq  
The Honorable Bert Dodson, Jr.  
The Honorable W. Sheppard Miller III  
The Honorable Carlos M. Brown  
The Honorable Cedric Bernard Rucker  
The Honorable Stephen A. Johnsen  
The Honorable F. Dixon Whitworth, Jr.  
The Honorable E. Scott Kasprovicz  
The Honorable Raymond D. Smoot Jr.  
The Honorable Marty Williams  
The Honorable John Malbon  
The Honorable Greg Yates

Subject: Approval of Limited Access Control Change (LACC) for Route 15/29 (James Madison Highway)

Dear Commonwealth Transportation Board Members:

The Department has received a request for your consideration from VVA – Opal, LLC for a break in the limited access control along Route 15/29 (James Madison Highway), for the construction of a right in and right out commercial entrance, to serve as direct access to and from their convenience store and gas station, Royal Farms, approximately 350 feet south of the Route 15/29 (James Madison Highway) and Route 687 (Opal Road) intersection, onto the proposed limited access right of way for Route 15/29 (James Madison Highway), requiring the extension of limited access and closure of two entrances along Route 15/29 (James Madison Highway) and extension of limited access and closure of a third entrance along Route 687 (Opal Road). The Department's staff has determined there will be minimal impact on the operation to Route 15/29 (James Madison Highway) and that the proposed LACCs are appropriate from a design, safety and traffic control standpoint.

The request meets the engineering criteria and guidelines set forth in Title 24, Agency 30, Chapter 401 of the Virginia Administrative Code. I have reviewed the Staff's recommendations, and determined that approving the limited access control changes will not adversely affect the safety or operation of the affected highway network. I have determined that this request should be considered by the Board.

Sincerely,

Barton A. Thrasher, P.E.  
Chief Engineer



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

1401 East Broad Street  
Richmond, Virginia 23219

**Stephen C. Brich, P.E.**  
Commissioner

June 24, 2020

### MEMORANDUM

**To: Barton A. Thrasher, P.E.**  
**Chief Engineer**

**From: Lori A. Snider**  
**State Right of Way and Utilities Director**

**RE: Limited Access Control Changes Request**  
**Route 15/29 (James Madison Highway), Fauquier County**

The above referenced limited access control changes request and supplemental documents are attached for your review. The requestor seeks a break in the limited access control along Route 15/29 (James Madison Highway) for the construction of a right in and right out commercial entrance to serve as direct access to and from their convenience store and gas station, Royal Farms, onto the proposed limited access right of way for Route 15/29 (James Madison Highway), requiring the extension of limited access and closure of two entrances along Route 15/29 (James Madison Highway) and extension of limited access and closure of a third entrance along Route 687 (Opal Road).

I concur with the District's recommendations and have approved the disposal of the associated limited access easement subject to the approval of the LACCs by the CTB.

Please let me know if you have any questions. Thank you.

## RESOLUTION

A RESOLUTION TO SUPPORT A MODIFICATION OF ACCESS ON JAMES MADISON HIGHWAY (US 15/29) BETWEEN THE OPAL INTERCHANGE AND OPAL ROAD (ROUTE 687) AND ON OPAL ROAD BETWEEN JAMES MADISON HIGHWAY AND AVATAR WAY (ROUTE 868)

WHEREAS, James Madison Highway (US 15/29), as depicted on plans for the Opal Interchange Project 0015-030-117, C-501, in Fauquier County is classified as a "Limited Access Highway" by the Virginia Department of Transportation; and

WHEREAS, the County is considering a proposal for commercial development that includes constructing a new entrance on southbound James Madison Highway in exchange for closing two existing entrances further north on James Madison Highway and a third entrance on Opal Road (Route 687); and

WHEREAS, the Fauquier County Board of Supervisors supports the proposal to modify the existing "Limited Access Line" on James Madison Highway and Opal Road; now, therefore, be it

RESOLVED, by the Fauquier County Board of Supervisors on this 13<sup>th</sup> day of June 2019, That the Fauquier County Board of Supervisors supports the proposal to modify the existing "Limited Access Line" on James Madison Highway and Opal Road as follows:

1. Break the Limited Access Line on James Madison Highway between Station 745+02.06 and Station 746+20.55 to allow for a right-in/right-out entrance on James Madison Highway.
2. Extend the northern Limited Access Line on James Madison Highway from its terminus at Station 747+21.84 north to Opal Road, as a result of closing the two existing right-in/right-out entrances on James Madison Highway, and along Opal Road from James Madison Highway west to Avatar Way (Route 868), as a result of closing the entrance on Opal Road.

RESOLVED FURTHER, That the Fauquier County Board of Supervisors hereby requests that the Commonwealth Transportation Board approve this modification to the "Limited Access Line" on James Madison Highway and Opal Road which is necessary to develop this parcel.

*A Copy Teste*

A handwritten signature in black ink, appearing to be 'P. McCulla'.

*Paul S. McCulla, County Administrator  
Clerk to the Board of Supervisors*

6/17/99

Item 10:

Moved by Mr. Myers, seconded by Mr. White, that

WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, a Location Public Hearing was held in the community of Bealton, Virginia, on Wednesday, March 19, 1997, for the purpose of considering the proposed location of Route 15 (Opal Interchange) from 0.910 mile (1.464 km) south intersection of Route 687, to 0.587 mile (0.945 km) north intersection of Route 687, in Fauquier County, State Project 0015-030-117, PE-101, RW201, C501, Federal Project STP-015-7 ( ); and

WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, the location of this project was approved in accordance with the plan as proposed and presented at the said Location Public Hearing as Alternative A by the Department's Engineers; and

WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, a Design Hearing was held in the Liberty High School, in the community of Bealton, Virginia, on Tuesday, February 23, 1999, between 5:00 p.m. and 7:00 p.m., for the purpose of considering the proposed major design features of Route 15 (Opal Interchange) from 0.910 mile (1.464 km) south intersection of Route 687, to 0.587 mile (0.945 km) north intersection of Route 687, in Fauquier County, State Project 0015-030-117, PE-101; RW201; C501 Federal Project STP-015-7( ); and

WHEREAS, proper notice was given in advance, and all those present were given a full opportunity to express their opinions and recommendations for or against the proposed project as presented, and their statements being duly recorded; and

WHEREAS, the economic, social, and environmental effects of the proposed project have been examined and given proper consideration, and this evidence, along with all other, has been carefully reviewed.

NOW, THEREFORE, BE IT RESOLVED that the major design features for the roadway section of this project be approved as presented at the Design Public Hearing.

6/17/99

**BE IT FURTHER RESOLVED that Route 15/29 and Route 17 Interchange be designated as a Limited Access Highway from Station 697+00.75, Route 15/29, to Station 710+91.607, Route 15/29, in accordance with the statutes of Virginia and in accordance with the Commonwealth Transportation Board Policies.**

**Motion carried.**

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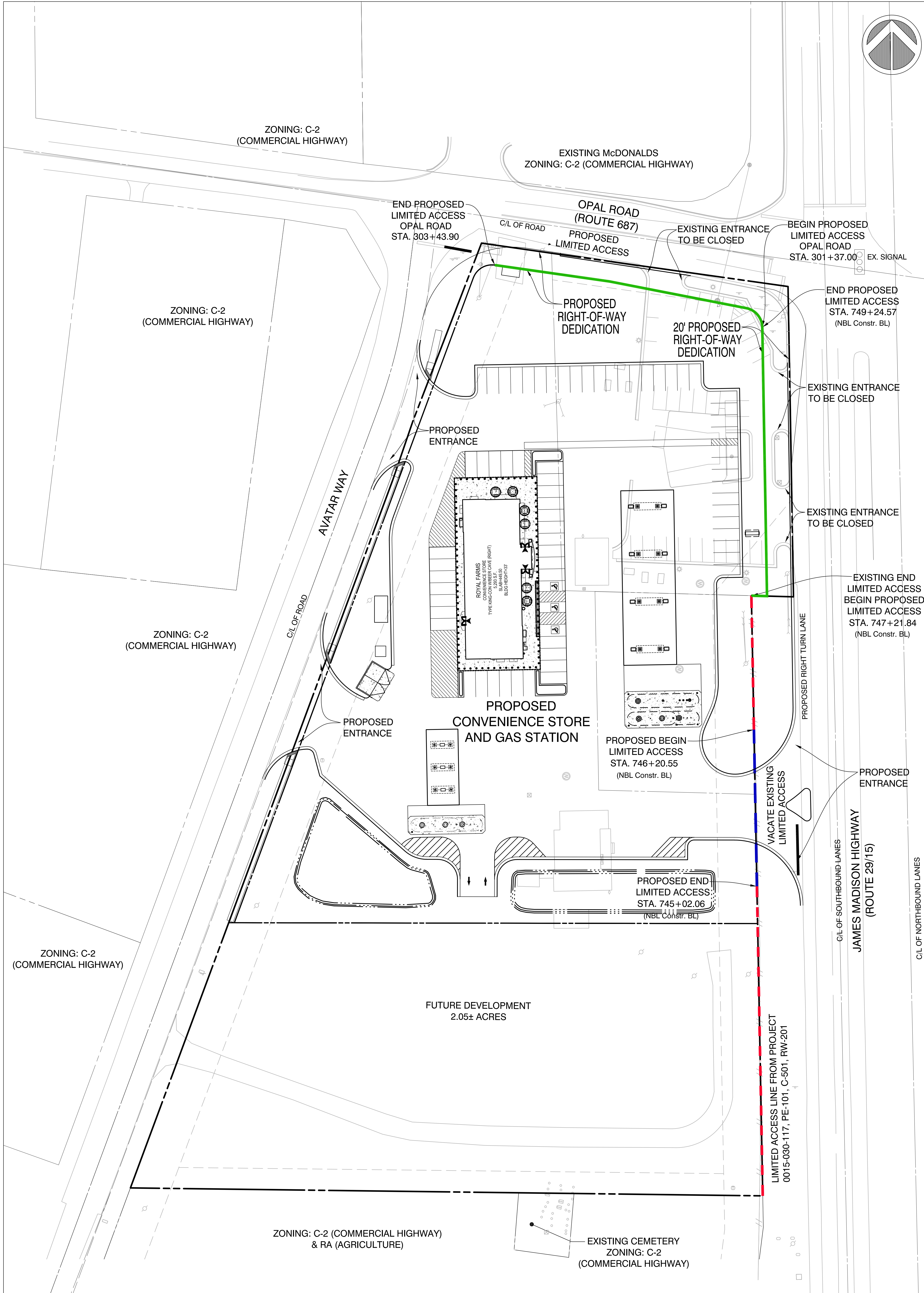
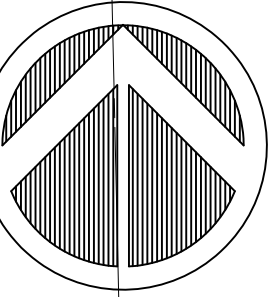
**Moved by Mr. Humphreys, seconded by Mr. Folkes, that**

**WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, a Location Public Hearing was held in Gloucester County, Virginia, on Tuesday, April 9, 1996, for the purpose of considering the proposed location of Route 614 from Gum Fork Road (Route 631) to Cedar Bush Road (Route 633), in Gloucester County, State Project 0614-036-111, C-502, D-605; and**

**WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, the location of this project was approved on October 16, 1996, in accordance with the plan as proposed and presented at the said Location Public Hearing on the existing alignment with the inclusion of Line "D" at Haynes Mill Pond, with modification in the design phase to shift the alignment to the north in the area of Carter Creek to lessen the impacts to adjacent wetlands; and**

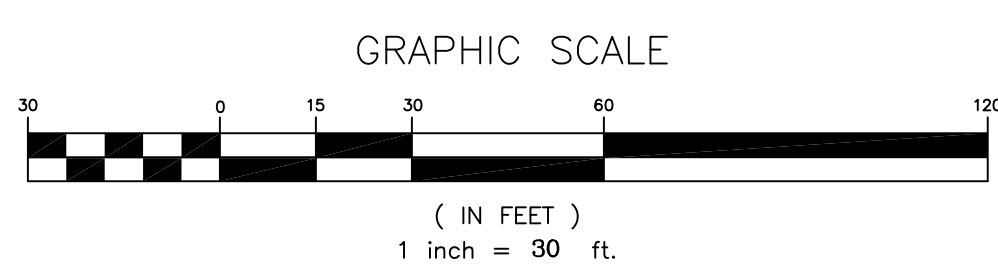
**WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, a Design Public Hearing was held in the Page Middle School, located in Gloucester County, Virginia, on Tuesday, April 13, 1999, between 4:00 p.m. and 7:00 p.m., for the purpose of considering the proposed major design features of Hickory Fork Road (Route 614) from Gum Fork Road (Route 631) to Cedar Bush Road (Route 633) in Gloucester County, State Project 0614-036-111, C-502, B-605; and**

**WHEREAS, proper notice was given in advance, and all those present were given a full opportunity to express their opinions and recommendations for or against the proposed project as presented, and their statements being duly recorded; and**



**LEGEND:**

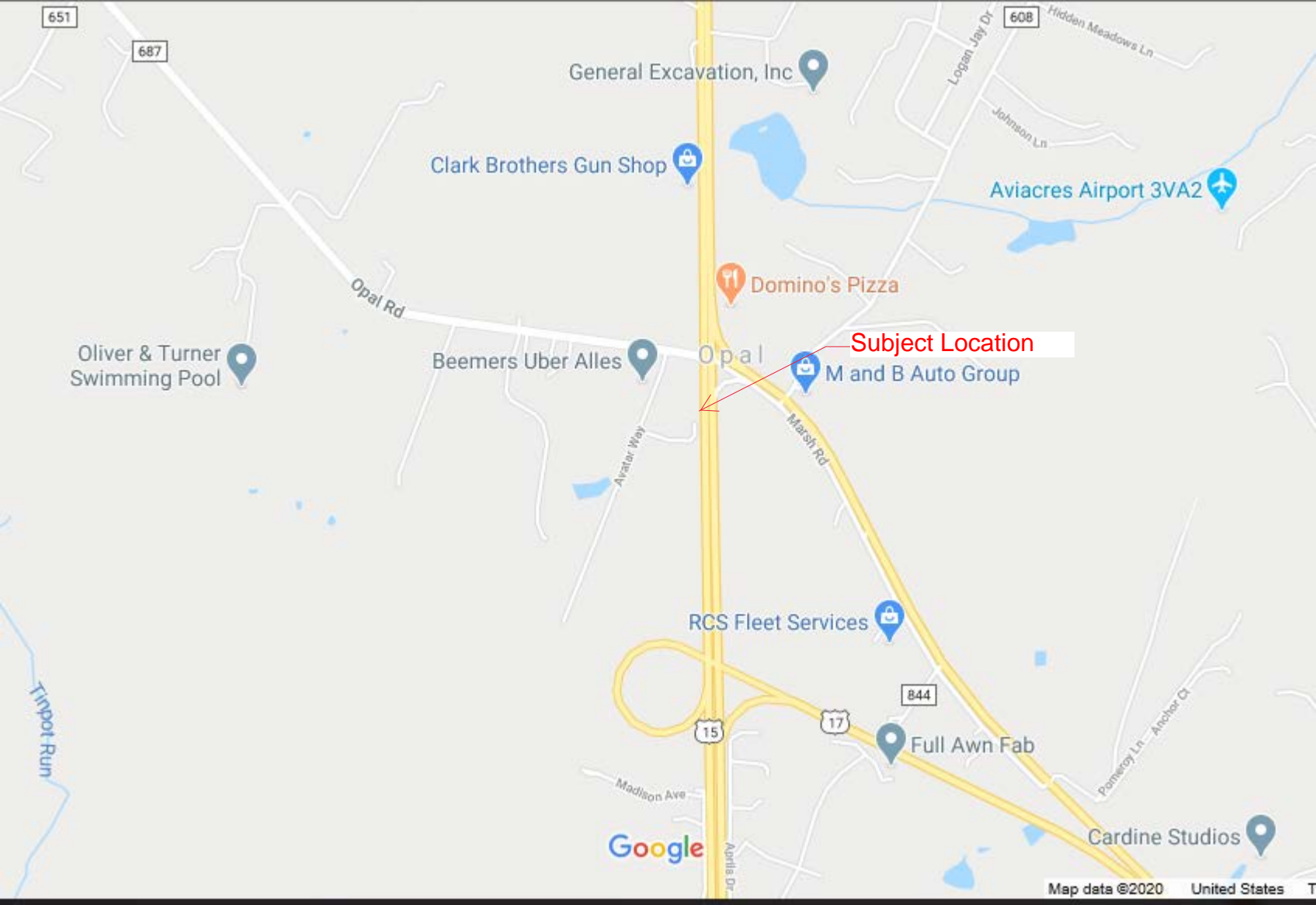
- EXISTING LIMITED ACCESS
- EXISTING LIMITED ACCESS TO BE VACATED
- PROPOSED LIMITED ACCESS



**LIMITED ACCESS CONTROL CHANGE EXHIBIT**

**ATTACHMENT A**

SEPTEMBER 11, 2019  
REV: DECEMBER 9, 2019  
MARCH 12, 2020



651

687

608

Oliver & Turner  
Swimming Pool

Clark Brothers Gun Shop

General Excavation, Inc

Aviatrix Airport 3VA2

Opal Rd

Beemers Uber Alles

Opal

Domino's Pizza

Subject Location

M and B Auto Group

Aventor Way

Marsh Rd

RCS Fleet Services

Full Awn Fab

Cardine Studios

Google

15

17

844

FOR INDEX OF SHEETS SEE SHEET 1A



COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION

PLAN AND PROFILE OF PROPOSED  
STATE HIGHWAY

FAUQUIER COUNTY  
FROM: 0.715 MI. SOUTH INT. ROUTE 687  
TO: 0.006 MI. SOUTH INT. ROUTE 687

FHWA-DATA-12103

LIMITED ACCESS HIGHWAY By Resolution of the Commonwealth Transportation Board, dated June 17, 1999

STATE	FEDERAL AID		STATE		SHEET NO.
	PROJECT	ROUTE	PROJECT		
VA.	STP-015-7( *** ) See Tabulation Below For Section Numbers	15	(F0)0015-030-117 See Tabulation Below For Section Numbers		1

FUNCTIONAL CLASSIFICATION AND TRAFFIC DATA		
RURAL OTHER PRINCIPAL ARTERIAL -DIVIDED- ROLLING		
Intersection Improvements at 15/29 and 17 (Interchange)		
	Route 15/29	Route 17
	50 MPH Min. Design Speed	60 MPH Min. Design Speed
ADT (2009)	46,200	22,100
ADT (2031)	78,600	39,800
DHV	4,580	2,300
D (%) (design hour)	65/35	39/61
T (%) (design hour)	11	13
V (MPH)	.	.

\*See Plan and Profile sheets for Horizontal and Vertical Curve Design Speed

RECOMMENDED FOR APPROVAL FOR RIGHT OF WAY ACQUISITION					
TOTAL TAKE FOR PARCELS					
008	009	010	012	013	021
12/7/05	Diane L. Mitchell PROGRAMMING DIVISION DIRECTOR				
12/7/05	Mohammad Mirshahi STATE LOCATION AND DESIGN ENGINEER				
12/8/05	Barbara W. Reese CHIEF FINANCIAL OFFICER				
12/8/05	Malcolm T. Kerley CHIEF ENGINEER				

APPROVED FOR RIGHT OF WAY ACQUISITION	
12/9/05	Gregory A. Whitley COMMISSIONER

RECOMMENDED FOR APPROVAL FOR RIGHT OF WAY ACQUISITION (PARTIAL TAKES)	
1/17/07	Diane L. Mitchell PROGRAMMING DIVISION DIRECTOR
4/13/07	Mohammad Mirshahi STATE LOCATION AND DESIGN ENGINEER
4/13/07	Barbara W. Reese CHIEF FINANCIAL OFFICER
4/16/07	Malcolm T. Kerley CHIEF ENGINEER

APPROVED FOR RIGHT OF WAY ACQUISITION	
4/20/07	David S. Ekern COMMISSIONER

RECOMMENDED FOR APPROVAL FOR CONSTRUCTION	
5/25/10	Diane L. Mitchell PROGRAMMING DIVISION DIRECTOR
5/27/10	Mohammad Mirshahi STATE LOCATION AND DESIGN ENGINEER
6/1/10	Kendal R. Walus STATE STRUCTURE AND BRIDGE ENGINEER
6/3/10	Reta Busher CHIEF FINANCIAL OFFICER

APPROVED FOR CONSTRUCTION	
6/3/10	Thomas W. Pelink, III for CHIEF ENGINEER

APPROVED	
DATE	DIVISION ADMINISTRATOR FEDERAL HIGHWAY ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

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PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0015-030-117		1

PROJECT MANAGER: H.M. Tomlinson (540) 829-7436  
 SURVEYED BY: T.E. Aigner (804) 786-1560  
 DESIGN SUPERVISED BY: J.W. Wilson (804) 786-7727  
 DESIGNED BY: J.W. Wilson (804) 786-7727

CONVENTIONAL SIGNS

STATE LINE	---
COUNTY LINE	---
CITY/TOWN OR VILLAGE	---
RIGHT OF WAY LINE	---
FENCE LINE	---
UNFENCED PROPERTY LINE	---
FENCED PROPERTY LINE	---
WATER LINE	---
SANITARY SEWER LINE	---
GAS LINE	---
ELECTRIC UNDERGROUND CABLE	---
TRAVELED WAY	---
GUARD RAIL	---
RETAINING WALL	---
RAILROADS	---
BASE OR SURVEY LINE	---

LEVEE OR EMBANKMENT

BRIDGES	---
CULVERTS	---
DROP INLET	---
POWER POLES	---
TELEPHONE OR TELEGRAPH POLES	---
TELEPHONE OR TELEGRAPH LINES	---
HEDGE	---
TREES	---
HEAVY WOODS	---
GROUND ELEVATION	---
GRADE ELEVATION	---

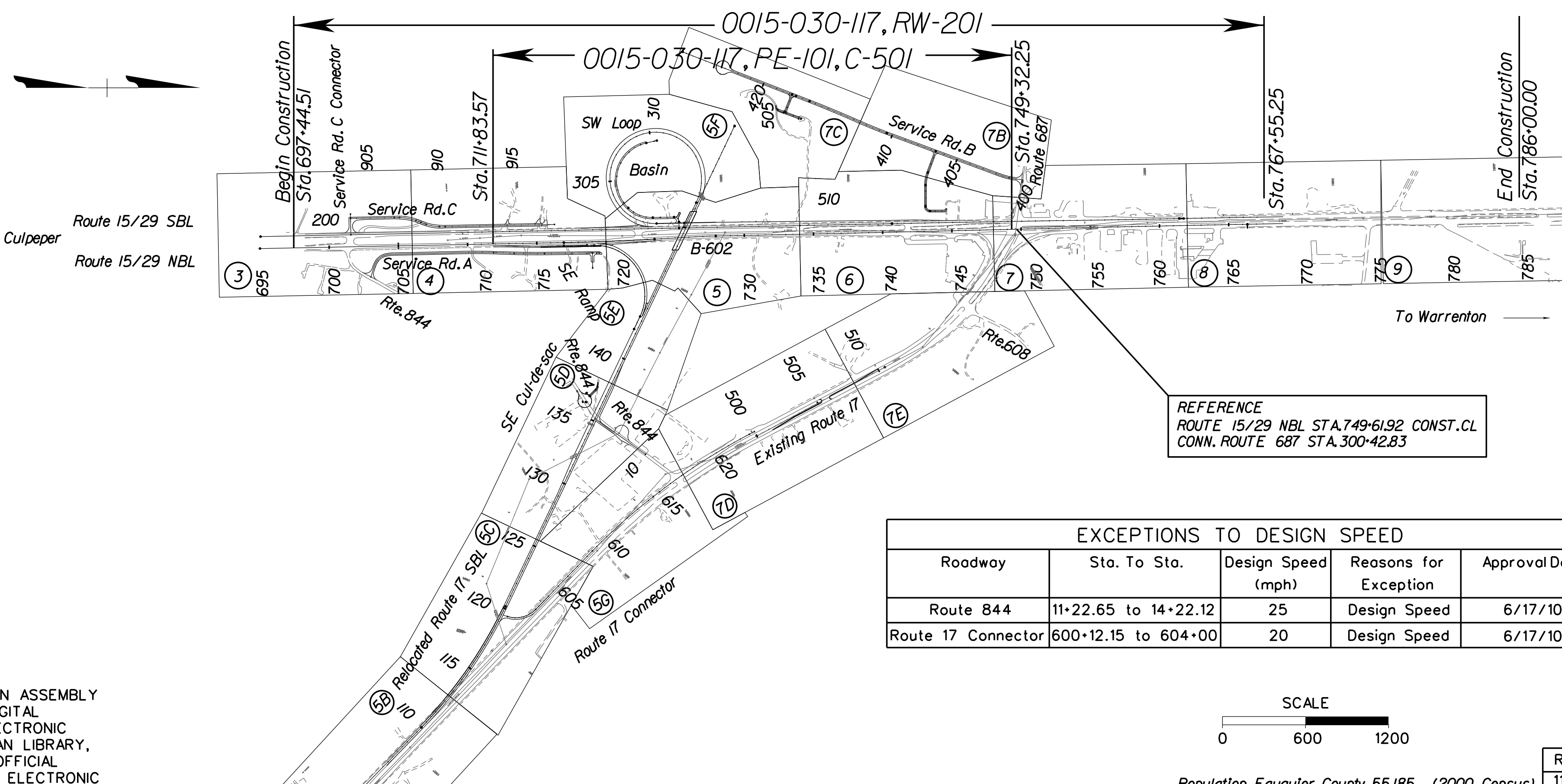
THE COMPLETE ELECTRONIC PDF VERSION OF THE PLAN ASSEMBLY AS AWARDED, HAS BEEN SEALED AND SIGNED USING DIGITAL SIGNATURES AND THE OFFICIAL PLAN ASSEMBLY IN ELECTRONIC FORMAT IS STORED IN THE VDOT CENTRAL OFFICE PLAN LIBRARY. INCLUDING ALL SUBSEQUENT REVISIONS, WILL BE THE OFFICIAL CONSTRUCTION PLANS. FOR INFORMATION RELATIVE TO ELECTRONIC FILES AND LAYERED PLANS, SEE THE GENERAL NOTES.

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT.

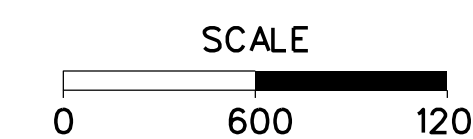
THIS PROJECT IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DEPARTMENT'S 2007 ROAD AND BRIDGE SPECIFICATIONS, 2008 ROAD AND BRIDGE STANDARDS, 2005 WORK AREA PROTECTION MANUAL AND AS AMENDED BY CONTRACT PROVISIONS AND THE COMPLETE ELECTRONIC .PDF VERSION OF THE PLAN ASSEMBLY.

ALL CURVES ARE TO BE SUPERELEVATED, TRANSITIONED AND WIDENED IN ACCORDANCE WITH STANDARD TC-5.01R, EXCEPT WHERE OTHERWISE NOTED.

THE ORIGINAL APPROVED TITLE SHEET(S), INCLUDING ORIGINAL SIGNATURES, ARE FILED IN THE VDOT CENTRAL OFFICE PLAN LIBRARY. ANY MISUSE OF ELECTRONIC FILES, INCLUDING SCANNED SIGNATURES, IS ILLEGAL AND ENFORCED TO THE FULL EXTENT OF THE LAW.



EXCEPTIONS TO DESIGN SPEED				
Roadway	Sta. To Sta.	Design Speed (mph)	Reasons for Exception	Approval Date
Route 844	11+22.65 to 14+22.12	25	Design Speed	6/17/10
Route 17 Connector	600+12.15 to 604+00	20	Design Speed	6/17/10



Population Fauquier County 55,85 (2000 Census)

STATE PROJECT NO.	SECTION	FEDERAL AID PROJECT NO.	TYPE CODE	PPMS NO.	EQUALITIES	LENGTH INCLUDING BRIDGE(S)		LENGTH EXCLUDING BRIDGE(S)		BRIDGE PROJECT NO.	TYPE PROJECT	DESCRIPTION
						FEET	MILES	FEET	MILES			
0015-030-117	C-501	STP-030-7(044)	1000	15984	N/A	3748.680	0.710	3748.680	0.710		CONST.	From: 0.715 Mi S. Int. Route 687 To: 0.006 Mi. S. Int. Route 687
	PE-101	STP-015-7(001)		15984	N/A	3748.680	0.710	3748.680	0.710		PREL. ENGR.	From: 0.715 Mi S. Int. Route 687 To: 0.006 Mi. S. Int. Route 687
	RW-201	STP-015-7(002)		15984	N/A	7010.740	1.328	7010.740	1.328		R/W	From: 0.988 Mi S. Int. Route 687 To: 0.340 Mi N. Int. Route 687
	B-602	STP-030-7(044)	X781-SN	15984	N/A	256	0.048			282-23	BRIDGE	Reloc. Rte. 17 SBL over Rte. 15/29
	PE-102	STP-015-7(001)		15984	N/A	256	0.048				PREL. ENGR.	Reloc. Rte. 17 SBL over Rte. 15/29

CODE NO. 6010

PROJECT LENGTH BASED ON RTE. 29 NBL CONSTRUCTION BASELINE.

REVISED	
11/19/07	
1/24/11	



PROJECT MANAGER: H.M. Tomlinson (540) 829-7436  
 SURVEYED BY: J.W. Wilson (804) 786-1560  
 DESIGN SUPERVISED BY: T.E. Aigner (804) 786-1560  
 DESIGNED BY: J.W. Wilson (804) 786-7272

- 1 Prop Perm Drainage Esm't
- 2 Prop Temp Constr. Esm't
- 3 Prop Perm Utility Esm't for Dominion VA Power and Verizon VA, Inc.
- 4 Prop Perm Sanitary Sewer Esm't for Fauquier Water & Sewer

- 5 S'd FE-WI Req'd
- 6 S'd GR-2 Req'd
- 7 S'd GR-9 Req'd
- 8 S'd GR-7 Req'd
- 9 S'd Paved Shoulder Req'd
- 10 S'd CG-3 Req'd
- 11 S'd CG-7 Req'd
- 12 S'd GR-FOA-2 TY I Req'd

- 13 Prop Perm Utility Esm't for Dominion VA Power
- 14 Prop Perm Utility Esm't for Verizon VA, Inc.
- 15 S'd GR-FOA-2 TY 2 Req'd
- 16 S'd GR-II End Treatment Req'd.

- 17 Underdrain S'd.UD-4 Req'd.
- 18 Underdrain Outlet Pipe
- 19 Endwall S'd. EW-I(24) Slope Req'd.

REVISION	STATE	FEDERAL AID	ROUTE	STATE	PROJECT	SHEET NO
12/12/06	VA.		15	0015-030-117, RW-201		6
11/19/07						
9/21/10						

COMMONWEALTH OF VIRGINIA

JAMES C. FOLSON, II  
Lic. No. 030714

PROFESSIONAL ENGINEER

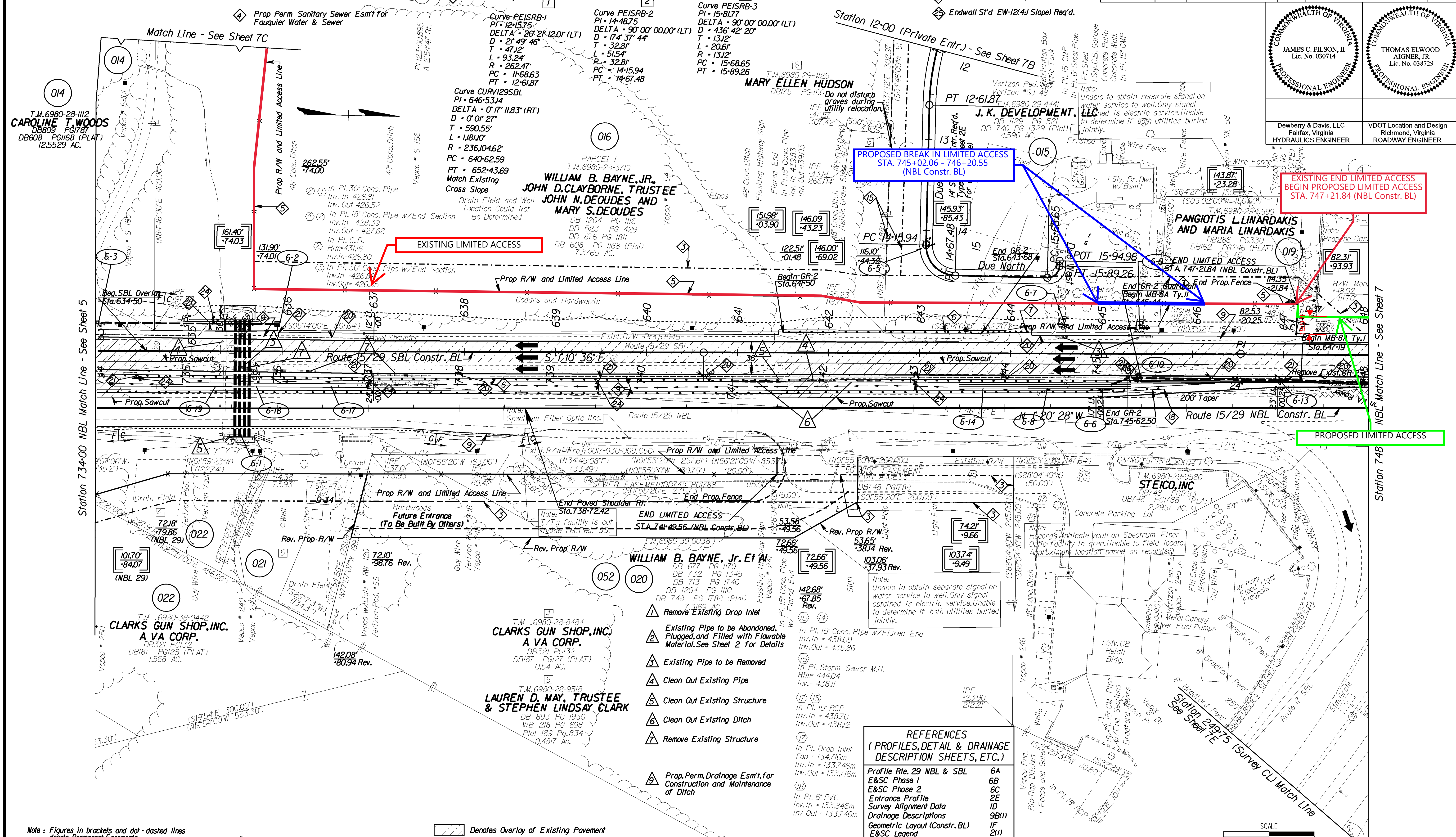
COMMONWEALTH OF VIRGINIA

THOMAS ELWOOD AIGNER, JR.  
Lic. No. 038729

PROFESSIONAL ENGINEER

Dewberry & Davis, LLC  
Fairfax, Virginia  
HYDRAULICS ENGINEER

VDOT Location and Design  
Richmond, Virginia  
ROADWAY ENGINEER



Note: Figures in brackets and dot-dashed lines denote Permanent Easements.  
 Note: Figures in parentheses and dot-dot-dashed lines denote Temporary Easements.  
 Note: Figures in double brackets and dot-dashed lines denote Permanent Utility Easements.

Denotes Overlay of Existing Pavement  
 Denotes Demolition of Pavement  
 Denotes New Pavement

Denotes Construction Limits In Cuts  
 Denotes Construction Limits In Fills

All Right of Way and Easement plusses are referenced from NBL 29 Constr. Baseline unless otherwise noted.

**REFERENCES**  
 (PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)

Profile Rte. 29 NBL & SBL	6A
E&S Phase 1	6B
E&S Phase 2	6C
Entrance Profile	2E
Survey Alignment Data	ID
Drainage Descriptions	9B(1)
Geometric Layout (Constr. BL)	1F
E&S Legend	2(1)

SCALE: 0 50' 100'

PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0015-030-117		6

9/23/2010 10:35:32

PROJECT MANAGER **H.M. Tomlinson** (540) 829-7436  
 SURVEYED BY  
 DESIGN SUPERVISED BY **T.E. Aigner** (804) 786-1560  
 DESIGNED BY **J.W. Wilson** (804) 786-7727

- ① Srd CG-3 Req'd
- ② Srd CG-7 Req'd
- ③ Srd GR-FOA-2 TY I Req'd
- ④ Prop Perm Utility Esm't for Dominion VA Power
- ⑤ Prop Perm Utility Esm't for Verizon VA, Inc.
- ⑥ Radial CG-3 Req'd
- ⑦ Radial GR-2A Req'd
- ⑧ Special Design Impact Attenuator Req'd. (See Sheet 20 for detail)

- ① Prop Perm Drainage Esm't
- ② Prop Temp Constr. Esm't
- ③ Prop Perm Utility Esm't for Dominion VA Power and Verizon VA, Inc.
- ④ Prop Perm Sanitary Sewer Esm't for Fauquier Water & Sewer
- ⑤ Srd FE-WI Req'd
- ⑥ Srd GR-2 Req'd
- ⑦ Srd GR-9 Req'd
- ⑧ Srd GR-7 Req'd
- ⑨ Srd Paved Shoulder Req'd

- ⚠ Remove Existing Drop Inlet
- ⚠ Existing Pipe to be Abandoned, Plugged, and Filled with Flowable Material. See Sheet 2 for Details
- ⚠ Existing Pipe to be Removed
- ⚠ Clean Out Existing Pipe
- ⚠ Clean Out Existing Structure
- ⚠ Clean Out Existing Ditch
- ⚠ Remove Existing Structure
- ⚠ Prop. Perm. Drainage Esm't for Construction and Maintenance of Ditch

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

STATE	FEDERAL AID PROJECT	ROUTE	STATE PROJECT	SHEET NO
VA.		15	0015-030-117, RW-201 C-501	7

COMMONWEALTH OF VIRGINIA

**JAMES C. FILSON, II**

Lic. No. 030714

PROFESSIONAL ENGINEER

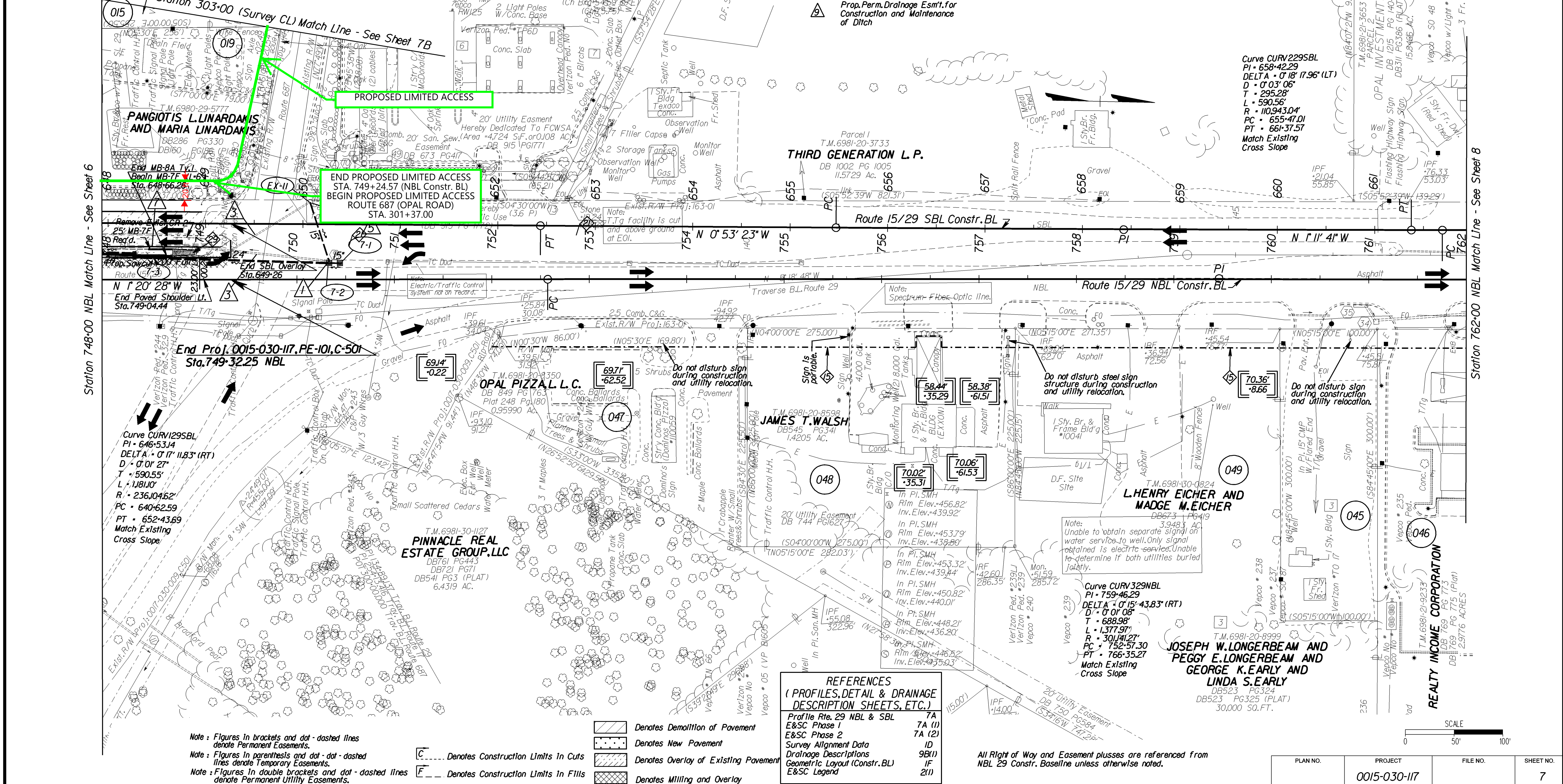
COMMONWEALTH OF VIRGINIA

**THOMAS ELWOOD AIGNER, JR.**

Lic. No. 038729

PROFESSIONAL ENGINEER

Dewberry & Davis, LLC Fairfax, Virginia HYDRAULICS ENGINEER	VDOT Location and Design Richmond, Virginia ROADWAY ENGINEER
---	--



Note: Figures in brackets and dot - dashed lines denote Permanent Easements.  
 Note: Figures in parenthesis and dot - dot - dashed lines denote Temporary Easements.  
 Note: Figures in double brackets and dot - dashed lines denote Permanent Utility Easements.

--- Denotes Construction Limits In Cuts  
 --- Denotes Construction Limits In Fills

- Denotes Demolition of Pavement
- Denotes New Pavement
- Denotes Overlay of Existing Pavement
- Denotes Milling and Overlay

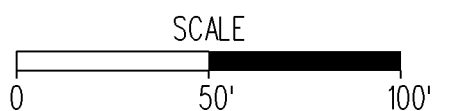
**REFERENCES**  
 (PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)

Profile Rte. 29 NBL & SBL	7A
E&S Phase 1	7A (1)
E&S Phase 2	7A (2)
Survey Alignment Data	ID
Drainage Descriptions	9B(1)
Geometric Layout (Constr. BL)	IF
E&S Legend	2(1)

All Right of Way and Easement plusses are referenced from NBL 29 Constr. Baseline unless otherwise noted.

**Curve CURV329SBL**  
 PI = 664-64.72  
 DELTA = 0° 19' 49.96" (RT)  
 D = 10' 03' 22"  
 T = 295.27'  
 L = 590.54'  
 R = 102,362.20'  
 PC = 661-69.45'  
 PT = 667-59.99'

**Curve CURV229SBL**  
 PI = 658-42.29  
 DELTA = 0° 18' 17.96" (LT)  
 D = 0° 03' 06"  
 T = 295.28'  
 L = 590.56'  
 R = 110,943.04'  
 PC = 655-47.01'  
 PT = 661-37.57'  
 Match Existing Cross Slope



PLAN NO.	PROJECT	FILE NO.	SHEET NO.
	0015-030-117		7





# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

*Agenda item # 2*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By:            Seconded By:            Action:**

**Title: Limited Access Control Changes (LACCs) for Route 286 (Fairfax County Parkway) Widening and the Popes Head Road Interchange  
Fairfax County**

**WHEREAS**, on July 16, 1987, the Commonwealth Transportation Board (CTB) designated the Springfield Bypass between Route 7 (near Dranesville) and U.S. Route 1 (near Fort Belvoir) as a Limited Access Highway; and

**WHEREAS**, the Springfield Bypass was renamed as the Fairfax County Parkway and designated Route 7100; and

**WHEREAS**, on February 15, 2012, the CTB approved the transfer of Route 7100 (Fairfax County Parkway) located in Fairfax County from the Secondary System of Highways to the Primary System of Highways; and

**WHEREAS**, on February 16, 2012 the Virginia Department of Transportation (VDOT) published a press release announcing that the CTB had renamed Route 7100, as Route 286; and

**WHEREAS**, State Highway Project 0286-029-259, P101, R201, C501, B621, B622, B623, B624, B625, B627, B628, B629, B630, B631, B632, D604, D605 (UPC# 107937) provides for the widening of Route 286 (Fairfax County Parkway) from four to six lanes from 0.62 miles north of Route 29 (Lee Highway) to 0.15 miles south of Route 123 (Ox Road), improvements to the Route 123 (Ox Road) interchange, improvements to the Route 286 (Fairfax County Parkway)/Route 643 (Burke Centre Parkway) intersection, and to provide a continuous shared-use path along Route 286 (Fairfax County Parkway) by constructing missing segments within the areas designated as limited access from Route 643 (Burke Centre Parkway) to Route 123 (Ox Road). State Highway Project 0286-029-365, P101, R201, C501, B619, B620 (UPC# 111725) will construct an interchange at Popes Head Road and the future Shirley Gate Road extension (collectively, the “Project”); and

**WHEREAS**, the widening of Route 286 (Fairfax County Parkway) requires an adjustment to the limited access line on the northbound and southbound sides of Route 286 (Fairfax County Parkway) shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets (attached); and

**WHEREAS**, the VDOT held a Design Public Hearing (“Hearing”) for the Project, including the current and proposed locations of the limited access lines, on December 12, 2019, between 6:30 pm and 8:30 pm at James W. Robinson, Jr. Secondary School, 5035 Sideburn Road, Fairfax, Virginia 22032, and allowed public input to be collected concerning the request; and

**WHEREAS**, proper notice of the Hearing was given in advance, and all those present were given a full opportunity to express their opinions and recommendations for or against the Project as presented, their statements being duly recorded; and

**WHEREAS**, the economic, social and environmental effects of the Project have been duly examined and given proper consideration and this evidence, along with all other relevant evidence, has been carefully reviewed; and

**WHEREAS**, the VDOT Northern Virginia District Office has reviewed the Interchange Justification Report (IJR) and found that it adequately addresses the impacts from the Project and proposed LACCs, and recommended the IJR for approval on June 8, 2020; and the Deputy Chief Engineer approved the IJR on June 23, 2020; and

Resolution of the Board  
Proposed Limited Access Control Change (LACCs)  
Route 286 (Fairfax County Parkway) Widening and Popes Head Road Interchange  
Fairfax County  
July 14, 2020  
Page 3 of 4

**WHEREAS**, the Project is in compliance with National Environmental Policy Act (NEPA) requirements and an Environmental Assessment was prepared under an agreement between the VDOT and the Federal Highway Administration and approved on November 14, 2019; and

**WHEREAS**, the Project is located within an 8-hour Ozone non-attainment area. Based on an air quality conformity review performed by VDOT in October 17, 2019, it was determined that the Project will not cause or contribute to a violation of any air quality standard, is compliant with all NEPA and transportation conformity requirements, and will not have an adverse impact on air quality; and

**WHEREAS**, the Project is in Fairfax County and is supported by a letter from the Director of the Fairfax County Department of Transportation dated April 17, 2020; and

**WHEREAS**, the Chief Engineer has determined that the proposed LACCs will not adversely affect the safety or operation of the highways; and

**WHEREAS**, the VDOT has reviewed the requested LACCs and determined that all are in compliance with §33.2-401 of the *Code of Virginia* and that the requirements of 24 VAC 30-401-20 have been met; and

**WHEREAS**, the VDOT recommends approval of the proposed LACCs as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets (attached).

**NOW, THEREFORE, BE IT RESOLVED**, in accordance with §33.2-401 of the *Code of Virginia* and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*, that the CTB hereby finds and concurs in the determinations and recommendations of the VDOT made herein, and directs that the Route 286 (Fairfax County Parkway) continue to be designated as a limited access control area, with the boundaries of limited access control being modified from the current locations as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets (attached).

**BE IT FURTHER RESOLVED**, that the location of the shared use path within the areas designated as limited access and its construction and maintenance, is approved as proposed and

Resolution of the Board  
Proposed Limited Access Control Change (LACCs)  
Route 286 (Fairfax County Parkway) Widening and Popes Head Road Interchange  
Fairfax County  
July 14, 2020  
Page 4 of 4

shown in the plans for the Project as presented to the public by the County of Fairfax, as the same may be modified during ongoing design review.

**BE IT FURTHER RESOLVED**, that pedestrians and bicyclists are authorized to use the shared use path within the areas designated as limited access along Route 286 (Fairfax County Parkway).

**BE IT FURTHER RESOLVED**, the Commissioner of Highways is authorized to take all actions and execute any and all documents necessary to implement such changes.

####

**CTB Decision Brief**  
**Proposed Limited Access Control Changes (LACCs)**  
**Route 286 (Fairfax County Parkway) Widening and the Popes Head Road Interchange**  
**Project 0286-029-259, P101, R201, C501, B621, B622, B623, B624, B625, B627, B628, B629,**  
**B630, B631, B632, D604, D605 (UPC# 107937);**  
**Project 0286-029-365, P101, R201, C501, B619, B620 (UPC# 111725)**  
**Fairfax County**

**Issues:** The area designated as limited access previously approved for Route 286 (Fairfax County Parkway) needs to be modified to accommodate the widening of Route 286 (Fairfax County Parkway), improvements to the Route 123 (Ox Road) interchange, improvements to the Route 286 (Fairfax County Parkway)/Route 643 (Burke Centre Parkway) intersection, and to provide a continuous shared-use path along Route 286 (Fairfax County Parkway) by constructing missing segments within the areas designated as limited access from Route 643 (Burke Centre Parkway) to Route 123 (Ox Road). These changes require the approval of the Commonwealth Transportation Board (CTB) pursuant to §33.2-401 of the *Code of Virginia*, and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*.

**Facts:**

- Limited access control for the Springfield Bypass between Route 7 (near Dranesville) and U.S. Route 1 (near Fort Belvoir) was previously established by the CTB on July 16, 1987.
- The Springfield Bypass was renamed as the Fairfax County Parkway and designated Route 7100.
- Route 7100 (Fairfax County Parkway) was transferred from the Secondary System of Highways to the Primary System of Highways by the CTB on February 15, 2012.
- The Virginia Department of Transportation (VDOT) published a press release on February 16, 2012 announcing that the CTB had renamed Route 7100, as Route 286.
- State Highway Project 0286-029-259, P101, R201, C501, B621, B622, B623, B624, B625, B627, B628, B629, B630, B631, B632, D604, D605 (UPC# 107937) provides for the widening of Route 286 (Fairfax County Parkway) from four to six lanes from 0.62 miles north of Route 29 (Lee Highway) to 0.15 miles south of Route 123 (Ox Road), improvements to the Route 123 (Ox Road) interchange, improvements to the Route 286 (Fairfax County Parkway)/Route 643 (Burke Centre Parkway) intersection, and to provide a continuous shared-use path along Route 286 (Fairfax County Parkway) by constructing missing segments within the areas designated as limited access from Route 643 (Burke Centre Parkway) to Route 123 (Ox Road). State Highway Project 0286-029-365, P101, R201, C501, B619, B620 (UPC# 111725) will construct an interchange at Popes Head Road and the future Shirley Gate Road extension (collectively, the “Project”). These improvements will impact the existing limited access control lines, as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets (attached).



CTB Decision Brief

Proposed Limited Access Control Changes (LACCs)

Route 286 (Fairfax County Parkway) Widening and Popes Head Road Interchange

Fairfax County

July 14, 2020

Page 2 of 3

- The VDOT held a Design Public Hearing (“Hearing”) for the Project, including the current and proposed locations of the limited access lines, on December 12, 2019, between 6:30 pm and 8:30 pm at James W. Robinson, Jr. Secondary School, 5035 Sideburn Road, Fairfax, Virginia 22032, and allowed public input to be collected concerning the request.
- Proper notice of the Hearing was given in advance, and all those present were given a full opportunity to express their opinions and recommendations for or against the Project as presented, their statements being duly recorded.
- The economic, social, and environmental effects of the Project have been duly examined and given proper consideration, and this evidence, along with all other relevant evidence, has been carefully reviewed.
- The VDOT Northern Virginia District Office has reviewed the Interchange Justification Report (IJR) and found that it adequately addresses the impacts from the Project and proposed LACCs. The District recommended the IJR for approval on June 8, 2020. The Deputy Chief Engineer approved the IJR on June 23, 2020.
- The Project is in compliance with National Environmental Policy Act (NEPA) requirements and an Environmental Assessment was prepared under an agreement between the VDOT and the Federal Highway Administration and approved on November 14, 2019.
- The Project is located within an 8-hour ozone non-attainment area. Based on an air quality conformity review performed by VDOT in October 17, 2019, it was determined that the project will not cause or contribute to a violation of any air quality standard, and is compliant with all NEPA and transportation conformity requirements, and will not have an adverse impact on air quality.
- The Project is in Fairfax County and is supported by a letter from the Director of the Fairfax County Department of Transportation dated April 17, 2020.
- The Chief Engineer has determined that the proposed LACCs will not adversely affect the safety or operation of the highways.
- The proposed LACCs are in compliance with §33.2-401 of the *Code of Virginia* and with the polices and requirements of the CTB contained in Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*.

**Recommendations:** It is recommended, pursuant to §33.2-401 of the *Code of Virginia*, and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*, that Route 286 (Fairfax County

Parkway) continue to be designated as a Limited Access Highway with the limited access control lines modified and/or established as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets (attached). This action will modify the limited access line and right of way previously approved by the CTB on July 16, 1987.

**Action Required by CTB:** The *Code of Virginia* §33.2-401 and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code* require a majority vote of the CTB to approve the recommended LACCs. The CTB will be presented with a resolution for a formal vote to approve the LACCs for the Project and to provide the Commissioner of Highways the requisite authority to execute all documents necessary to implement the LACCs.

**Result, if Approved:** The Commissioner of Highways will be authorized to execute any and all documents needed to comply with the resolution, and the Route 286 (Fairfax County Parkway) Widening and Popes Head Road Interchange Project will move forward.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** There were one hundred and fourteen (114) citizens that attended the meeting per the sign in sheets. A total of twenty-six (26) written/mailed comments and twenty-four (24) oral comments were received for the record.



## COMMONWEALTH of VIRGINIA

### *Commonwealth Transportation Board*

Sean T. Connaughton  
Chairman

1401 East Broad Street - Policy Division - CTB Section - #1106  
Richmond, Virginia 23219

(804) 786-1830  
Fax: (804) 225-4700

*Agenda item # 3*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**February 15, 2012**

#### **MOTION**

**Made By: Mr. Garczynski Seconded By: Mr. Koelemay**

**Action: Motion Carried, Unanimously**

#### **Title: Transfer of Selected Secondary Highways to Primary Highway System**

**WHEREAS**, in accordance with Item 4.2.2 of the 2012 Virginia Department of Transportation Strategic Business Plan (the "Plan"), selected routes were reviewed for possible transfer from the Secondary System of Highways to the Primary System of Highways; and,

**WHEREAS**, the highways identified for the Plan's review were as follows: Route 3000, Prince William County Parkway located in Prince William County; Route 7100, Fairfax County Parkway located in Fairfax County; and, Route 7900, Franconia-Springfield Parkway located in Fairfax County; and,

**WHEREAS**, transfers of highways from the Secondary System of Highways to the Primary System of Highways by the Commonwealth Transportation Board are governed by §33.1-34.A, Code of Virginia, 1950, as amended, and Department Policy Memorandum (DPM) 8-1; and,

**WHEREAS**, Routes 3000, 7100 and 7900 each appear to have at least one section that meets many of the criteria laid out in DPM 8-1 for transfer to the Primary System of Highways; and ,

**NOW, THEREFORE, BE IT RESOLVED**, pursuant to § 33.1-34(A), Code of Virginia, this Board hereby orders the transfer of the below listed segments of Route 3000, Route 7100 and Route 7900, a combined distance of less than 50 miles, from the Secondary System of Highways to the Primary System of Highways.

**Fairfax County - Route 7100 – Fairfax County Parkway**

**CTB Transfers to Primary System:**

From: Route 1 to Routes 617 & 877	2.80 Mi.
From: Route 7900 @ Rolling Road to 0.19 Mi. West Ramp from Route 636, Hoes Road	2.56 Mi.
From: 0.12 Mi. Southeast Ramp from Route 123 to Ramps To & From Route 267	14.60 Mi.
From: 0.04 Mi. So. Ramps to & From Spring Street to Route 6220 @ Route 7	4.0 Mi.
From: 0.19 Mi. West Ramp From Route 636, Hoes Road To 0.12 Mi. Southeast Ramp from Route 123	4.71 Mi.
From: Ramps To & From Route 267 to 0.04 Mi. So. Ramps To & From Spring Street	0.24 Mi.
From: Route 877 to Route 617, approximately	0.30 Mi.
<b>Approximate Mileage For CTB Transfers:</b>	<b>29.21 Mi.</b>

**Fairfax County - Route 7900 – Franconia-Springfield Parkway**

**CTB Transfers to Primary System:**

From: Route 7100 @ Rolling Road to 0.47 Mi. East Bonnie Mill Lane	1.72 Mi.
From: 0.32 Mi. West Frontier Drive Ramps to Frontier Dr.	0.50 Mi.
From: Frontier Drive to Route 613 – Beulah Road	0.86 Mi.
From: 0.47 Mi. East Bonnie Mill Lane to 0.32 Mi. West Frontier Drive Ramps	0.60 Mi.
<b>Approximate Mileage for CTB Transfers to Primary System</b>	<b>3.68 Mi.</b>

**Prince William County - Route 3000 – Prince William Parkway**

**CTB Transfers to Primary System:**

From: Route 234 to SCL Manassas @ Hastings Drive	1.89 Mi.
From: Liberia Drive & Wellington Road @ ECL Manassas to To Route 1	14.02 Mi.
<b>Approximate Mileage for CTB Transfers to Primary System</b>	<b>15.91 Mi.</b>

**Total Approximate Mileage for Transfer to Primary System by CTB in 2012: 48.80 Mi.**



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.  
Commissioner

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

July 1, 2020

The Honorable Shannon Valentine  
The Honorable Stephen C. Brich, P. E.  
The Honorable Jennifer Mitchell  
The Honorable Jerry L. Stinson  
The Honorable Mary Hughes Hynes  
The Honorable Allison DeTuncq  
The Honorable Bert Dodson, Jr.  
The Honorable W. Sheppard Miller III  
The Honorable Carlos M. Brown  
The Honorable Cedric Bernard Rucker  
The Honorable Stephen A. Johnsen  
The Honorable F. Dixon Whitworth, Jr.  
The Honorable E. Scott Kasprovicz  
The Honorable Raymond D. Smoot, Jr.  
The Honorable Marty Williams  
The Honorable John Malbon  
The Honorable Greg Yates

Subject: Approval of Limited Access Control Changes (LACCs) for the Route 286 (Fairfax County Parkway) Widening and Popes Head Road Interchange projects in Fairfax County.

Dear Commonwealth Transportation Board Members:

The Department has initiated the above request for LACCs for your consideration. The proposed LACCs on State Highway Projects 0286-029-259, P101, R201, C501, B621, B622, B623, B624, B625, B627, B628, B629, B630, B631, B632, D604, D605 and 0286-029-365, P101, R201, C501, B619, B620 have been determined as a necessary design feature and recommended for approval by the Department's staff.

I have reviewed the staff's recommendations and determined that approving these LACC's will not adversely affect the safety or operation of the affected highway network. I have determined that this request should be considered by the Board.

Sincerely,

Barton A. Thrasher, P.E.  
Chief Engineer



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax

April 17, 2020

Ms. Helen L. Cuervo, P.E.  
District Administrator  
Northern Virginia District  
Virginia Department of Transportation  
4975 Alliance Drive  
Fairfax, Virginia 22030

Subject: Board of Supervisors Endorsement of Fairfax County Parkway Widening and  
Popes Head Interchange, UPC 107937 and 111725

Dear Ms. Cuervo: *Helen*

On April 14, 2020, the Fairfax County Board of Supervisors endorsed the design plans to widen approximately 5.5 miles of the Fairfax County Parkway (Route 286) from four to six lanes between Ox Road (Route 123) and Lee Highway (U.S. 29), as presented at the December 12, 2020, public hearing. This multimodal project is intended to reduce congestion, improve safety, enhance traffic operations, and provide facilities for pedestrians and bicyclists. This project also includes a change in limited access control. It will be completed in three phases. The first phase is an interchange at Pope's Head Road; the second phase is the widening from U.S. 29 to Nomes Court; and the third phase is the widening from Nomes Court to Route 123.

Please call Nick Alexandrow at (703) 877-5754 or me at (703) 877-5663, if you have any questions or need additional information. Thank you for your assistance with this important project.

Sincerely,

Tom Biesiadny  
Director

cc: Members, Board of Supervisors  
Bryan J. Hill, County Executive  
Rachel Flynn, Deputy County Executive  
Sitaram Kodali, P.E., Project Manager, VDOT  
Nicholas Roper, P.E., Project Development, VDOT  
Andrew Beacher, Manager, Preliminary Engineering, VDOT

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Fairfax County Department of Transportation  
4050 Legato Road, Suite 400  
Fairfax, VA 22033-2895  
Phone: (703) 877-5600 TTY: 711  
Fax: (703) 877-5723  
[www.fairfaxcounty.gov/fcdot](http://www.fairfaxcounty.gov/fcdot)



Ms. Helen Cuervo  
April 17, 2020  
Page 2 of 2

Eric M. Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT  
Michael J. Guarino, Chief, Capital Projects Section, FCDOT  
Tad Borkowski, Capital Projects Section, FCDOT  
Nick Alexandrow, Capital Projects Section, FCDOT

Re: LACC UPC 107937 and 111725 - ROUTE 286  
(FAIRFAX COUNTY PARKWAY) WIDENING & POPES  
HEAD ROAD INTERCHANGE



**Rogerson, George** <[george.rogerson@vdot.virginia.gov](mailto:george.rogerson@vdot.virginia.gov)>

10:40 AM (4  
minutes ago)

to Lori, Neil

Lori and Neil,

Thank you very much for your review and approval.

George  
(804) 350-1571 (cell)

On Mon, Jun 8, 2020 at 10:30 AM Snider, Lori <[lori.snider@vdot.virginia.gov](mailto:lori.snider@vdot.virginia.gov)> wrote:

I approve the proposed LACC from a right of way & utilities perspective.

Lori

On Mon, Jun 8, 2020, 10:02 AM Hord, Neil <[neil.hord@vdot.virginia.gov](mailto:neil.hord@vdot.virginia.gov)> wrote:

Lori,

I have reviewed the attached project related LACC. It is for a shift in the limited access line to accommodate a shared use path. I recommend your approval from a right of way and utilities perspective. If you concur please reply back to George so that he can advance this item for the June CTB meeting. Thank you.

Neil



7/16/87

Moved by Mr. Guiffre, seconded by Mr. Beyer, that

WHEREAS, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board, Design Public Hearings were held between October 7 and November 20, 1986 in various locations in Fairfax County for the purpose of considering the proposed design of the Springfield Bypass\* from Route 7 (near Dranesville) to Route 1 (near Fort Belvoir), in Fairfax County, excluding a section from Intersection 66 to Braddock Road and including the proposed Franconia Spur between Rolling Road and Beulah Street, State Project R000-029-249, PE-103, PE-104, PE-105, PE-106; Federal Project M-5401( ), and

WHEREAS, proper notice was given in advance and all those present were given a full opportunity to express their opinions and recommendations for or against the proposed project as presented, and their statements being duly recorded, and

WHEREAS, the economic, social and environmental effects of the proposed project have been examined and given proper consideration, and this evidence, along with all other, has been carefully reviewed.

NOW, THEREFORE, BE IT RESOLVED, that the major design features of this project be approved in accordance with the plan as proposed and presented at the said Design Public Hearing by the Department's engineers along alternatives that do not adversely impact Pope's Head Park, Burke Lake Park, South Run Park or Huntsman Park unless Federal approval is obtained with the following modifications:

\* IKA FAIRFAX COUNTY PARKWAY  
RTE. 7100

7/16/87

1. provide a grade separation with no access at Pinecrest Road,
2. provide an additional one way, northbound access only to the Fair Oaks Hospital,
3. eliminate access to Fairfax Station Road,
4. provide access for the extension of the Burke Center Parkway,
5. provide a grade separation with no access at Clara Barton Drive,
6. shift ramp alignment in the southwest quadrant of the Rolling Road interchange to reduce impacts on the adjacent community, and
7. provide minor adjustments where prudent and feasible to minimize or eliminate individual concerns; and

BE IT FURTHER RESOLVED, that the Springfield Bypass, in accordance with the statutes of the Commonwealth of Virginia and policies of the Commonwealth Transportation Board be designated as a limited access highway as presented at the said hearing with modifications as included herein.

Motion carried.

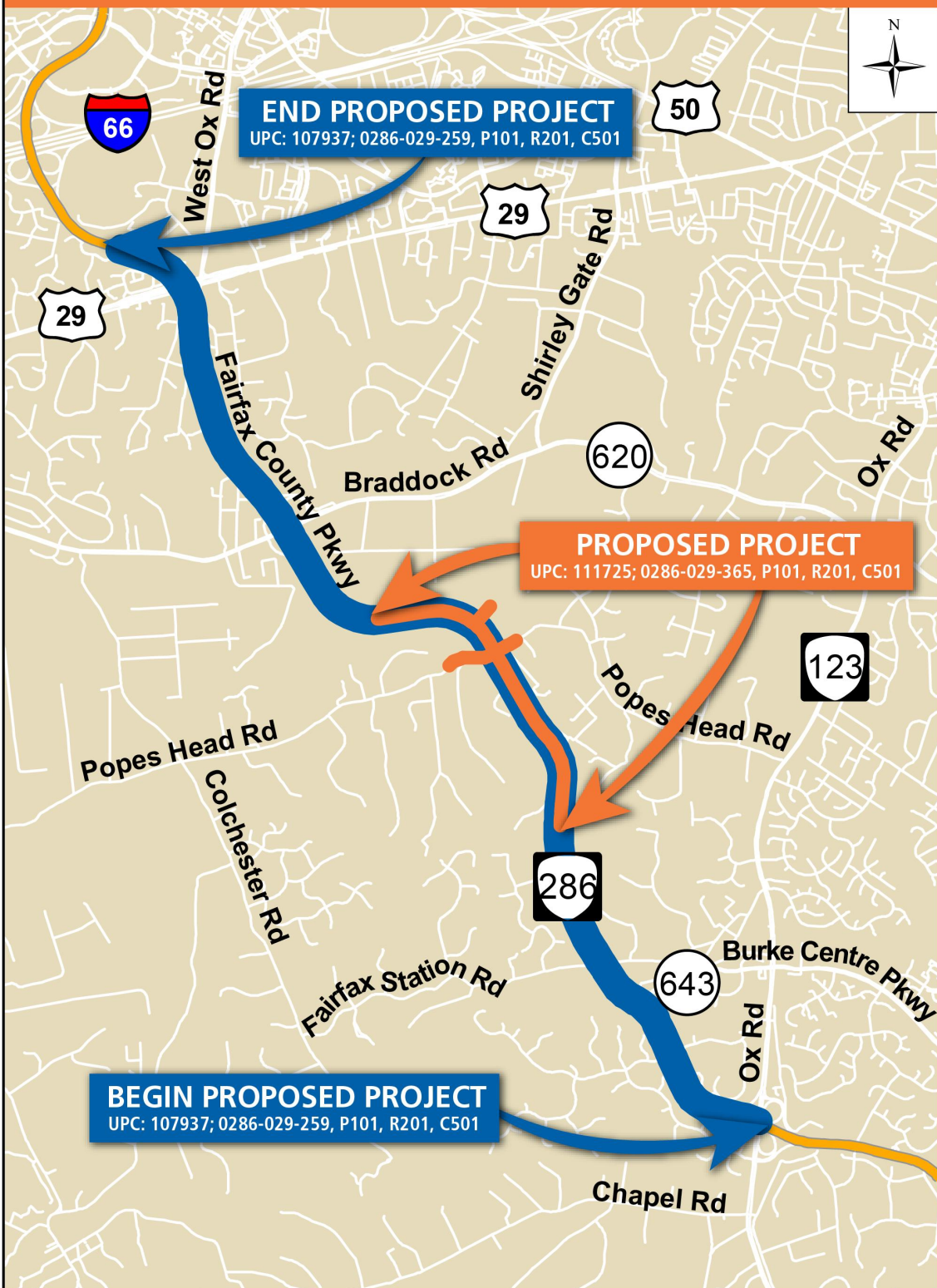
Moved by Mrs. Kincheloe, seconded by Mr. Bacon, that

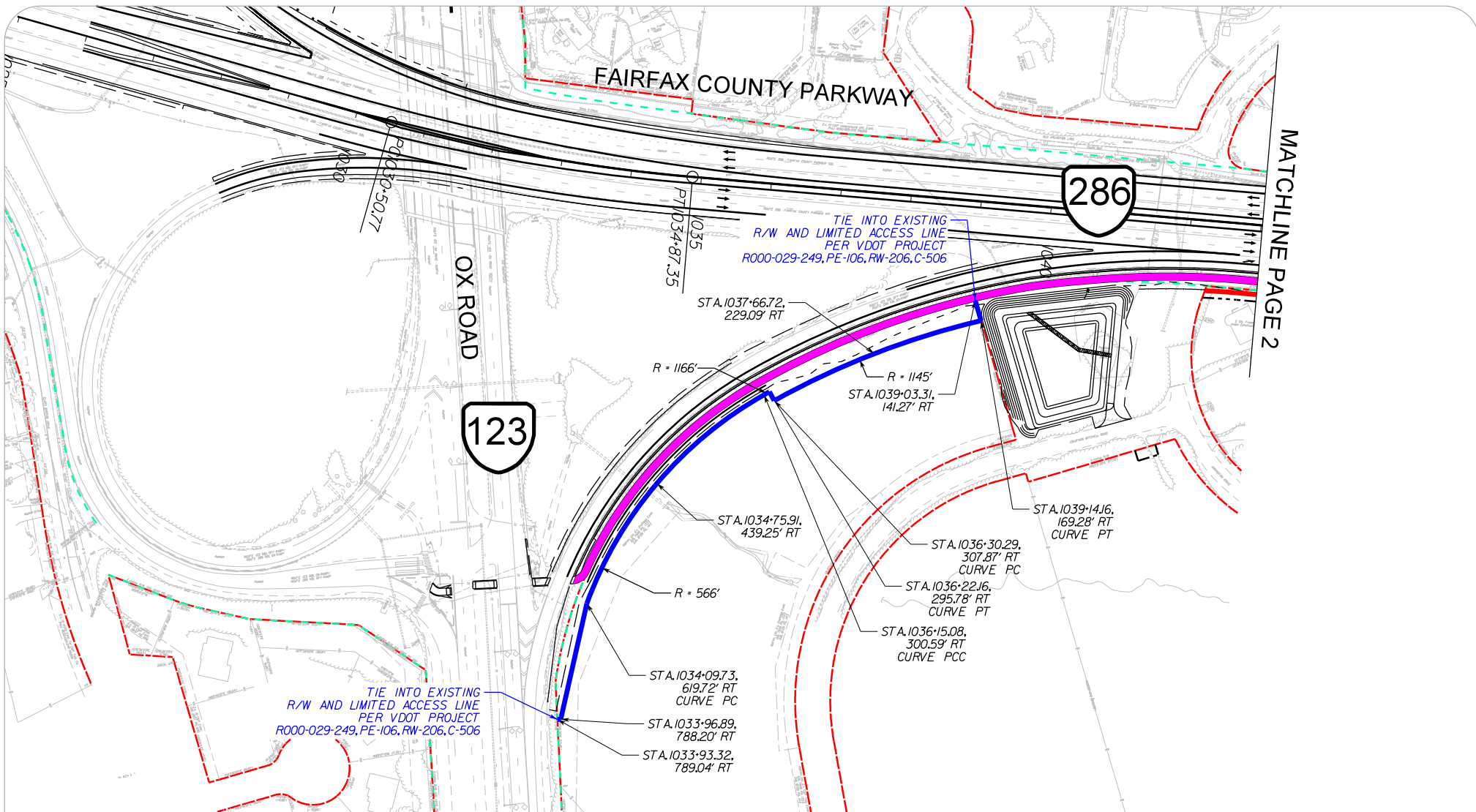
WHEREAS, under the authority of Section 33.1-62 of the Code of Virginia (1950), as amended, the Commonwealth Transportation Board is authorized to designate Virginia Byways as recommended by the Department of Conservation and Historic Resources after providing the opportunity for public hearings; and


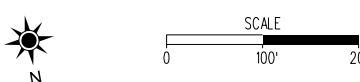
WHEREAS, the staffs of the Division of Parks and Recreation and the Virginia Department of Transportation have reviewed and determined that Routes 601, 676, and 614 in Albemarle County from U.S. Routes 29/250 to the Community of Owensville where Route 601 changes to 676 then to 614 and extends to the intersection with Route 810 at the Community of White Hall, substantially meets the adopted criteria for Virginia Byways; and

# LOCATION MAP

## Fairfax County

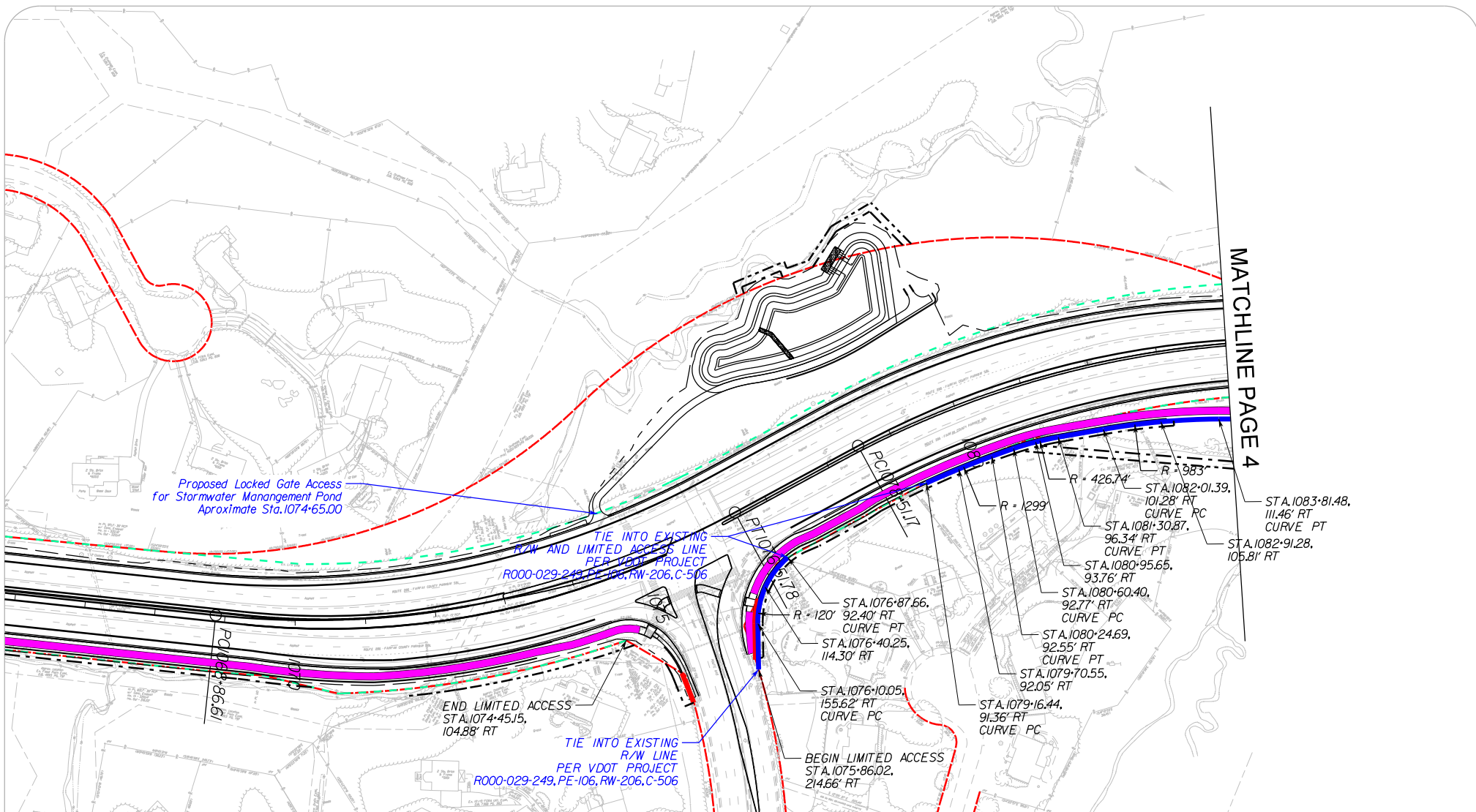




Notes	Legend	Project Location
<p>LIMITED ACCESS CONTROL MODIFICATIONS APPROVED BY THE COMMONWEALTH TRANSPORTATION BOARD BY RESOLUTION DATED July 16, 1987</p> <p>ALL STATIONS AND OFFSETS SHOWN ARE BASED ON THE RTE. 286 CONSTRUCTION BASELINE.</p>	<ul style="list-style-type: none"> <li>--- Exist. R/W &amp; Limited Access Line</li> <li>--- Exist. Right of Way</li> <li>--- Exist. Limited Access Line</li> <li>--- Prop. R/W &amp; Limited Access Line</li> <li>--- Prop. R/W</li> <li>--- Prop. Limited Access Line</li> <li>--- Prop. Fairfax County Parkway Trail</li> <li>--- Exist. Fairfax County Parkway Trail</li> </ul>	<p>Fairfax County</p>  <p>North Arrow and Scale</p> 
<p><b>Disclaimer</b></p> <p>These plans are unfinished and unapproved and are not to be used for any type of construction or the acquisition of Right of Way. Additional Easement for Right of Way may be required beyond the proposed right-of-way shown on these plans.</p>		



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
 WIDENING AND POPES HEAD ROAD  
 INTERCHANGE  
 PAGE 1 OF 13



MATCHLINE PAGE 4

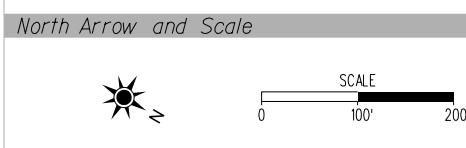
**Notes**      **Legend**      **Project Location**

LIMITED ACCESS CONTROL MODIFICATIONS APPROVED BY THE COMMONWEALTH TRANSPORTATION BOARD BY RESOLUTION DATED July 16, 1987

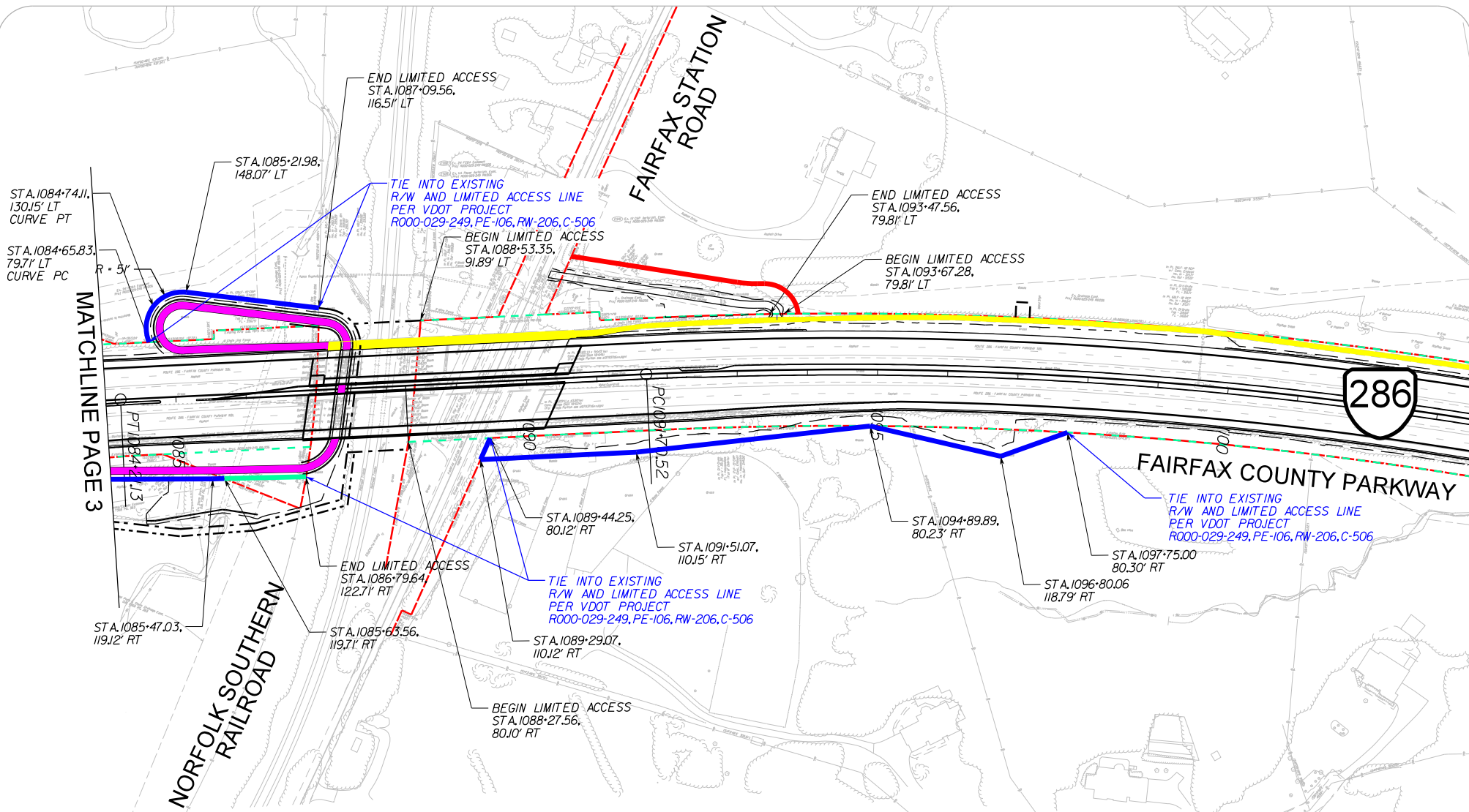
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- Exist. R/W & Limited Access Line
- Exist. Right of Way
- Exist. Limited Access Line
- Prop. R/W & Limited Access Line
- Prop. R/W
- Prop. Limited Access Line
- Prop. Fairfax County Parkway Trail
- Exist. Fairfax County Parkway Trail



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
 WIDENING AND POPES HEAD ROAD  
 INTERCHANGE



**Notes**

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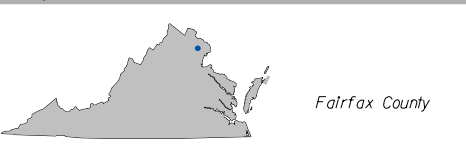
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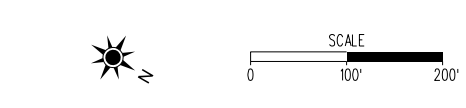
**Legend**

- Exist.R/W & Limited Access Line
- Exist.Right of Way
- Exist.Limited Access Line
- Prop.R/W & Limited Access Line
- Prop.R/W
- Prop.Limited Access Line
- Prop.Fairfax County Parkway Trail
- Exist.Fairfax County Parkway Trail

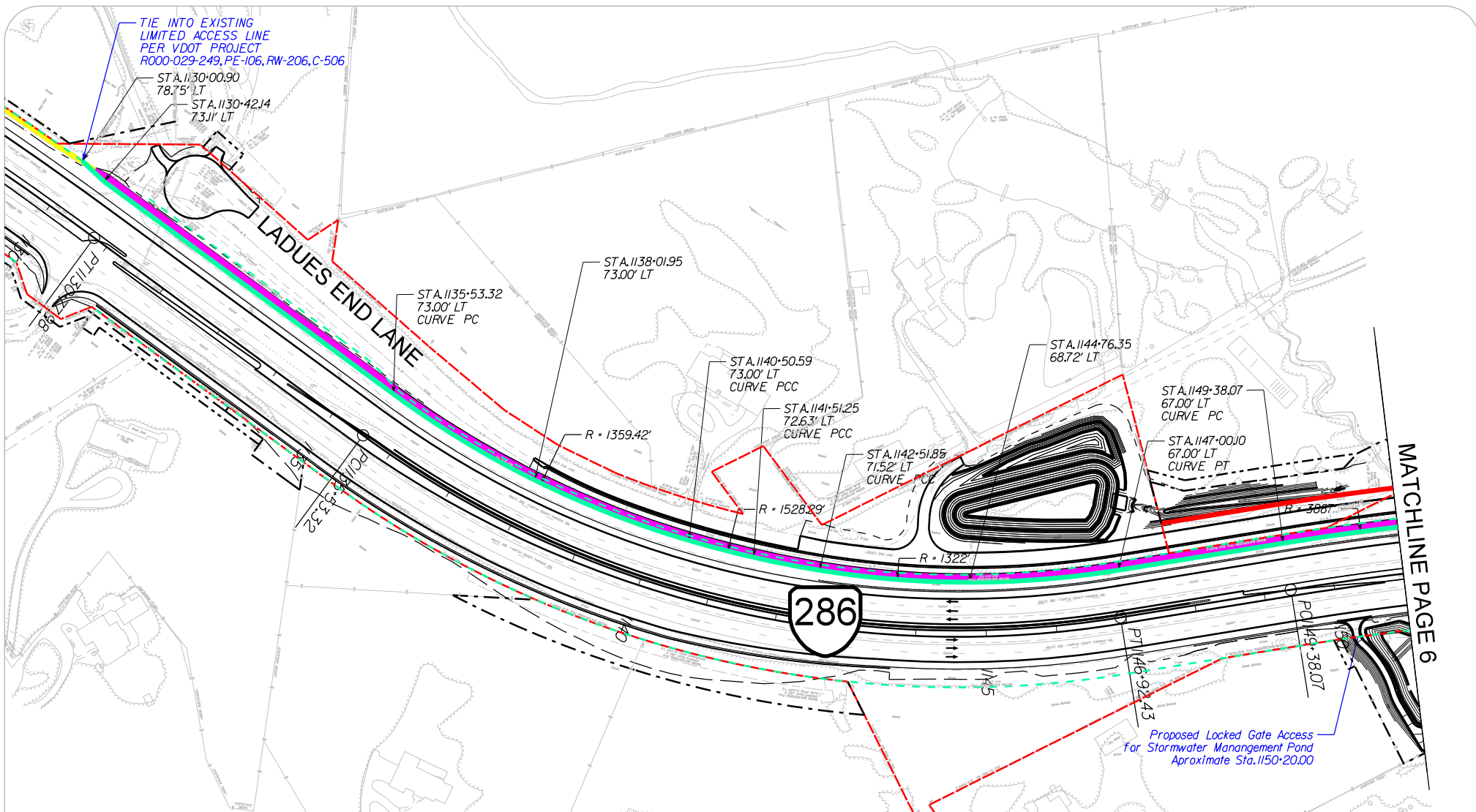
**Project Location**




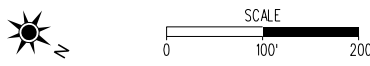
**North Arrow and Scale**



**ROUTE 286 (FAIRFAX COUNTY PARKWAY) WIDENING AND POPES HEAD ROAD INTERCHANGE**



MATCHLINE PAGE 6

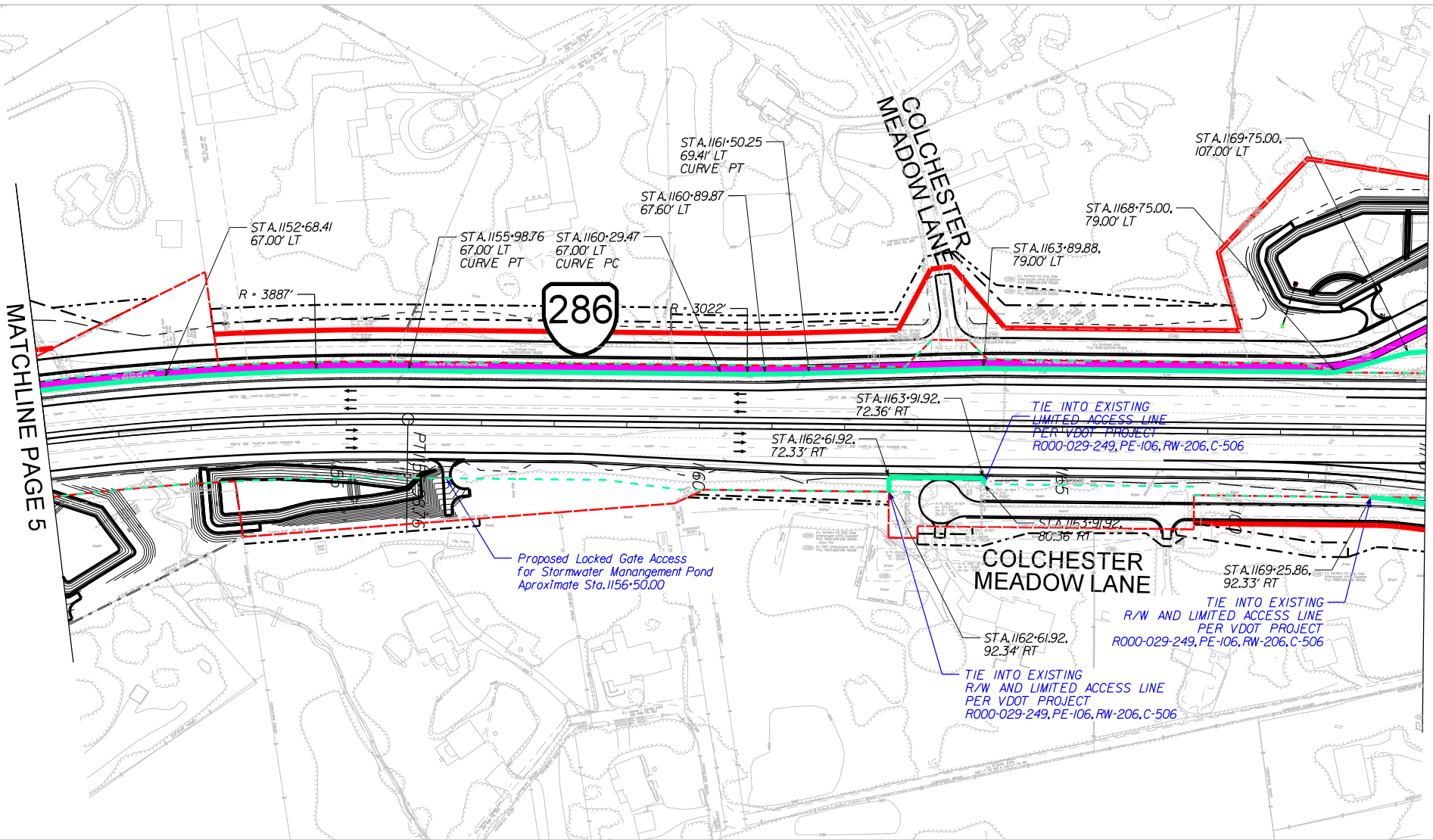
Notes	Legend	Project Location
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ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPES HEAD ROAD  
INTERCHANGE

MATCHLINE PAGE 5

MATCHLINE PAGE 7



Notes

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Legend

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- Exist. Right of Way
- Exist. Limited Access Line
- Prop. R/W & Limited Access Line
- Prop. R/W
- Prop. Limited Access Line
- Prop. Fairfax County Parkway Trail
- Exist. Fairfax County Parkway Trail

Project Location



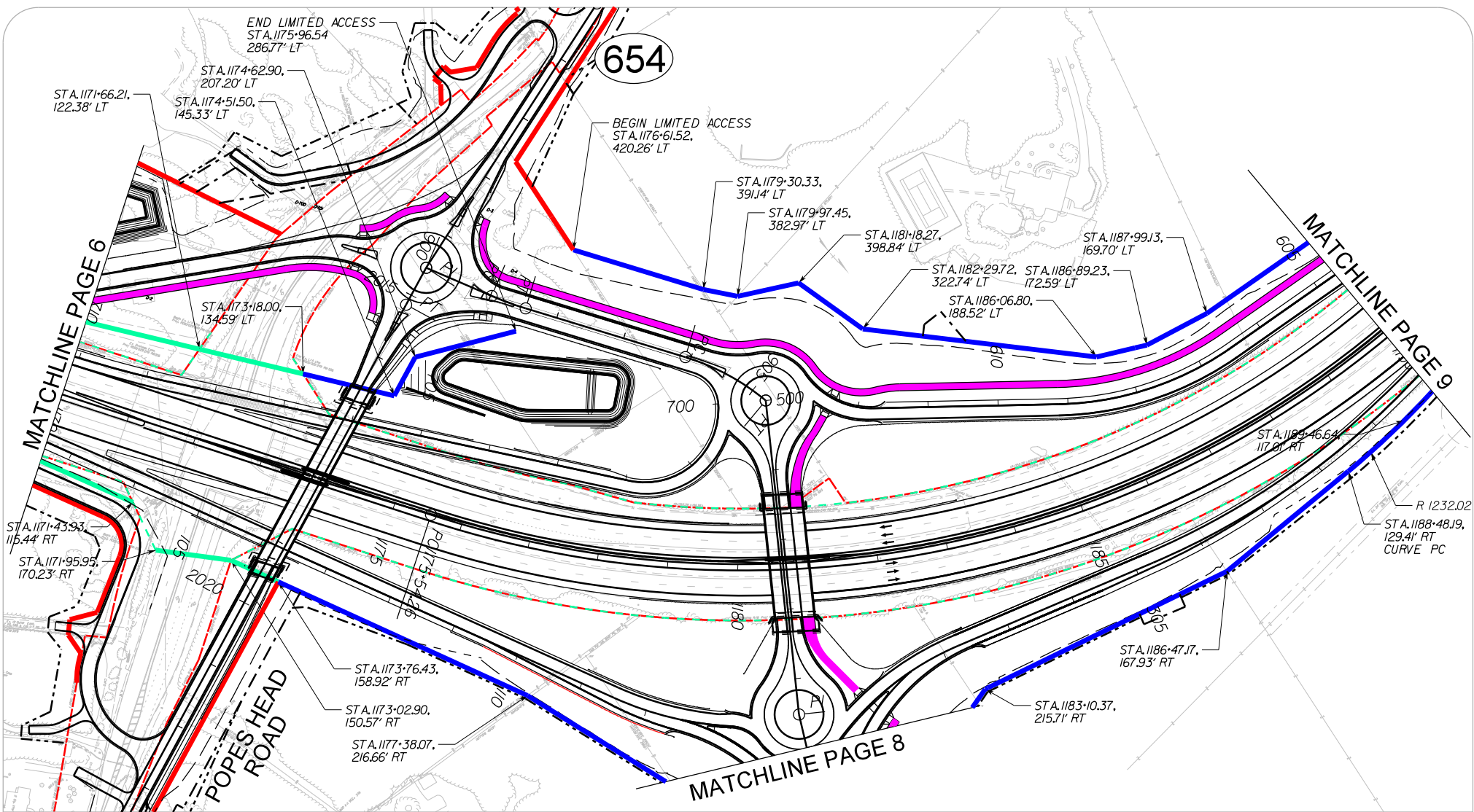
North Arrow and Scale



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPES HEAD ROAD  
INTERCHANGE

PAGE 6 OF 13





**Notes**

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- Exist.Right of Way
- Exist.Limited Access Line
- Prop.R/W & Limited Access Line
- Prop.R/W
- Prop.Limited Access Line
- Prop.Fairfax County Parkway Trail
- Exist.Fairfax County Parkway Trail

**Project Location**

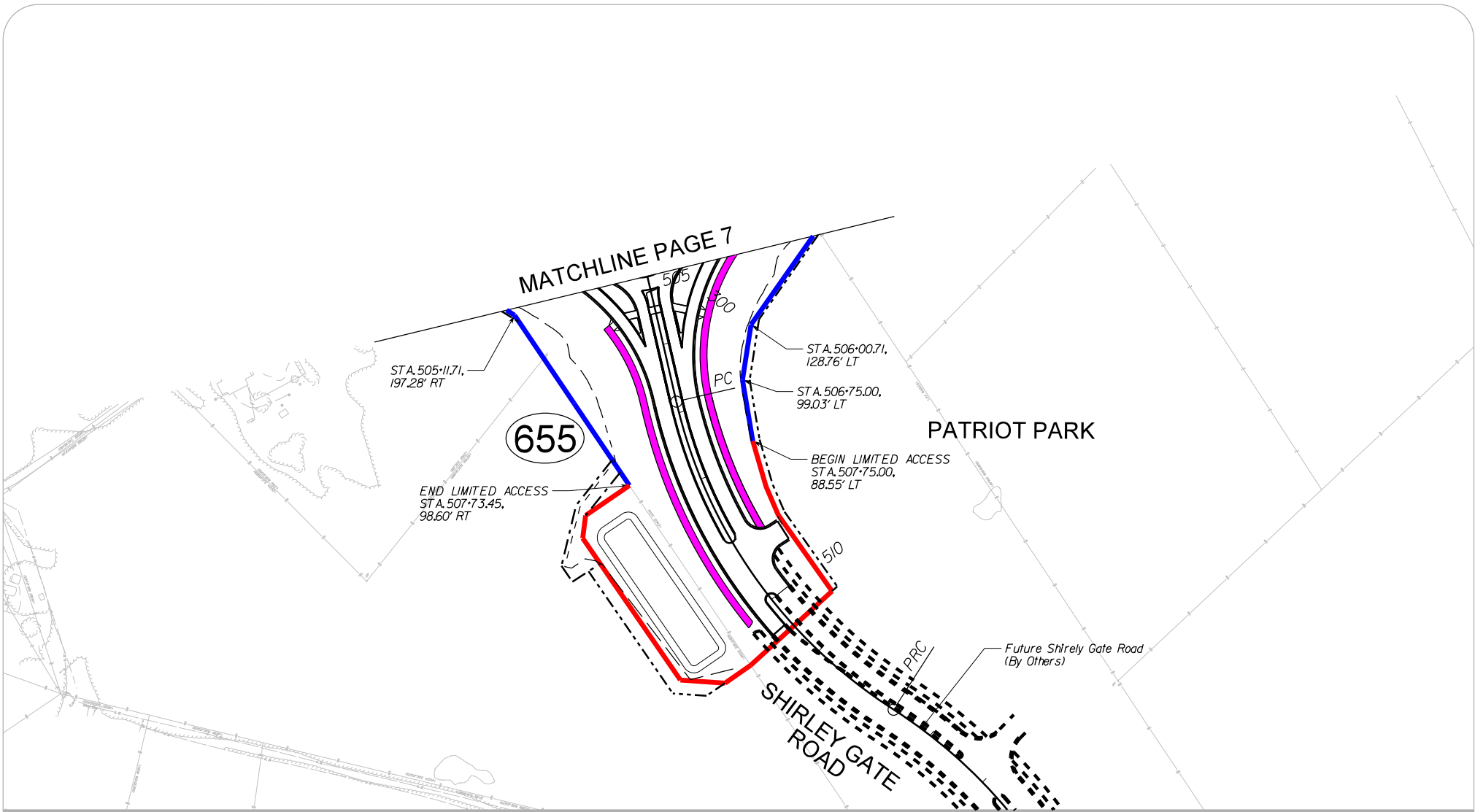


**North Arrow and Scale**



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPE'S HEAD ROAD  
INTERCHANGE

PAGE 7 OF 13



**Notes**

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- Exist.Limited Access Line
- Prop.R/W & Limited Access Line
- Prop.R/W
- Prop.Limited Access Line
- Prop.Fairfax County Parkway Trail
- Exist.Fairfax County Parkway Trail

**Project Location**

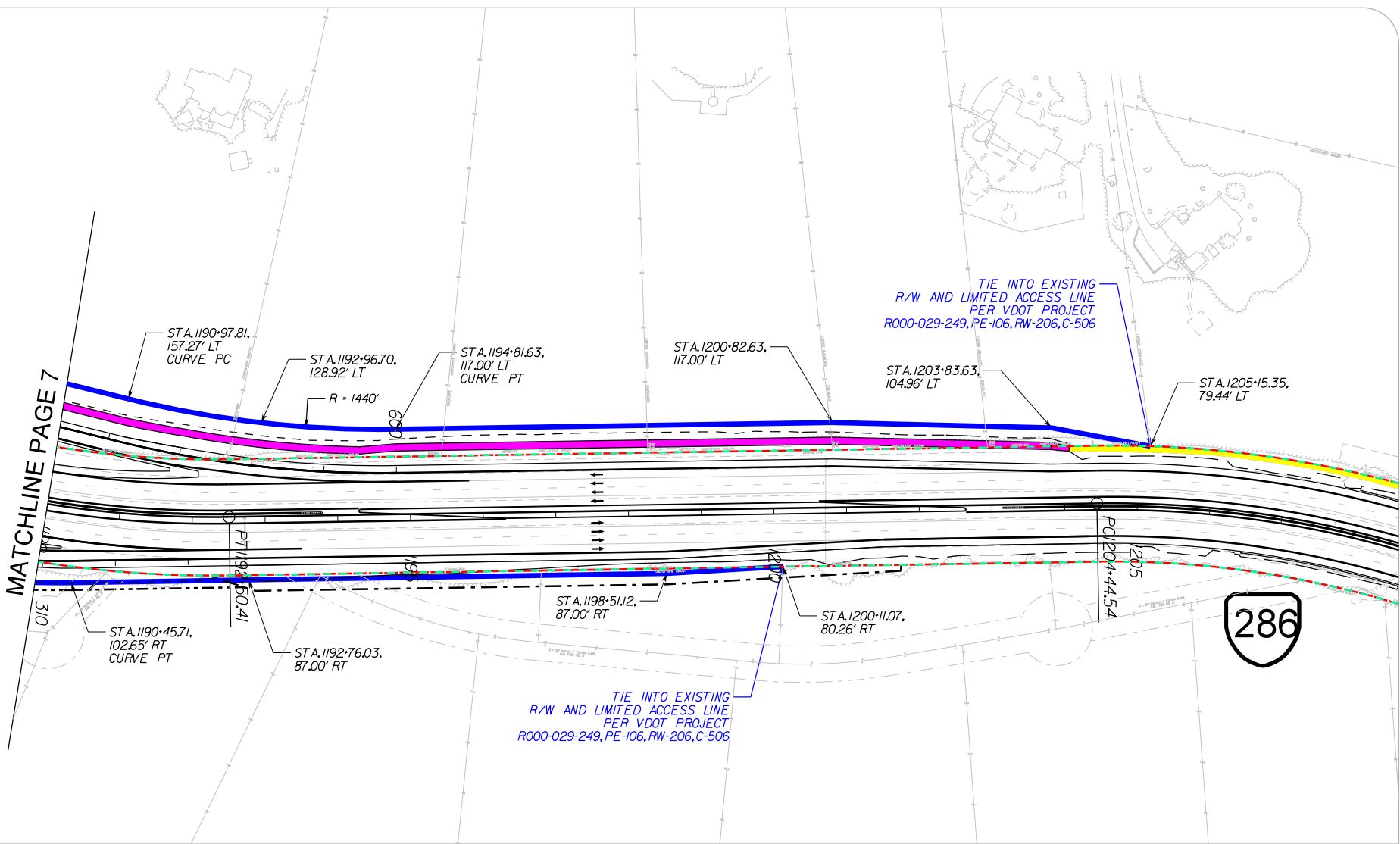


**North Arrow and Scale**



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPES HEAD ROAD  
INTERCHANGE

MATCHLINE PAGE 7



Notes

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- Exist. Fairfax County Parkway Trail

Project Location

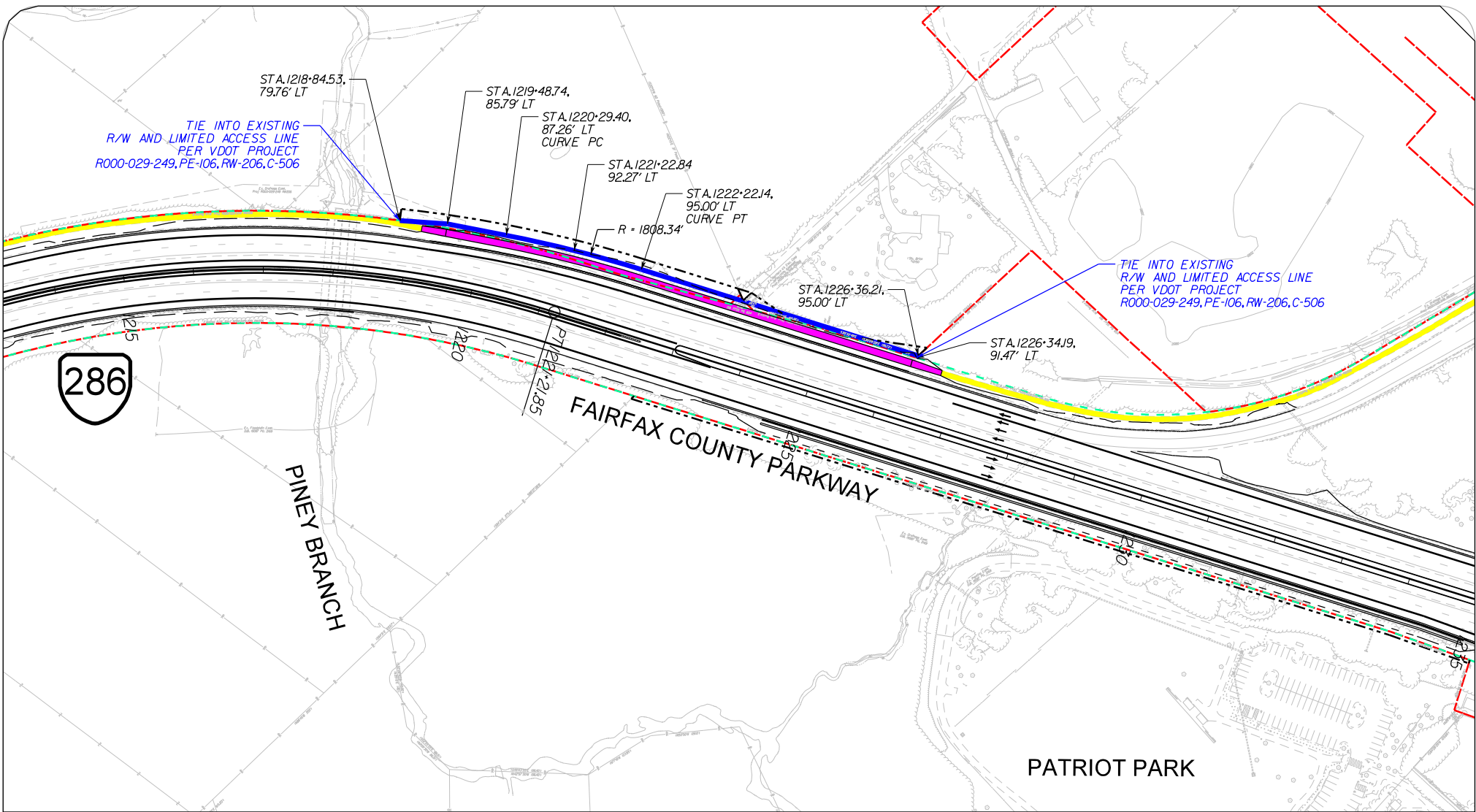


North Arrow and Scale



ROUTE 286 (FAIRFAX COUNTY PARKWAY) WIDENING AND POPES HEAD ROAD INTERCHANGE

PAGE 9 OF 13



**Notes**

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- Prop.Limited Access Line
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- Exist.Fairfax County Parkway Trail

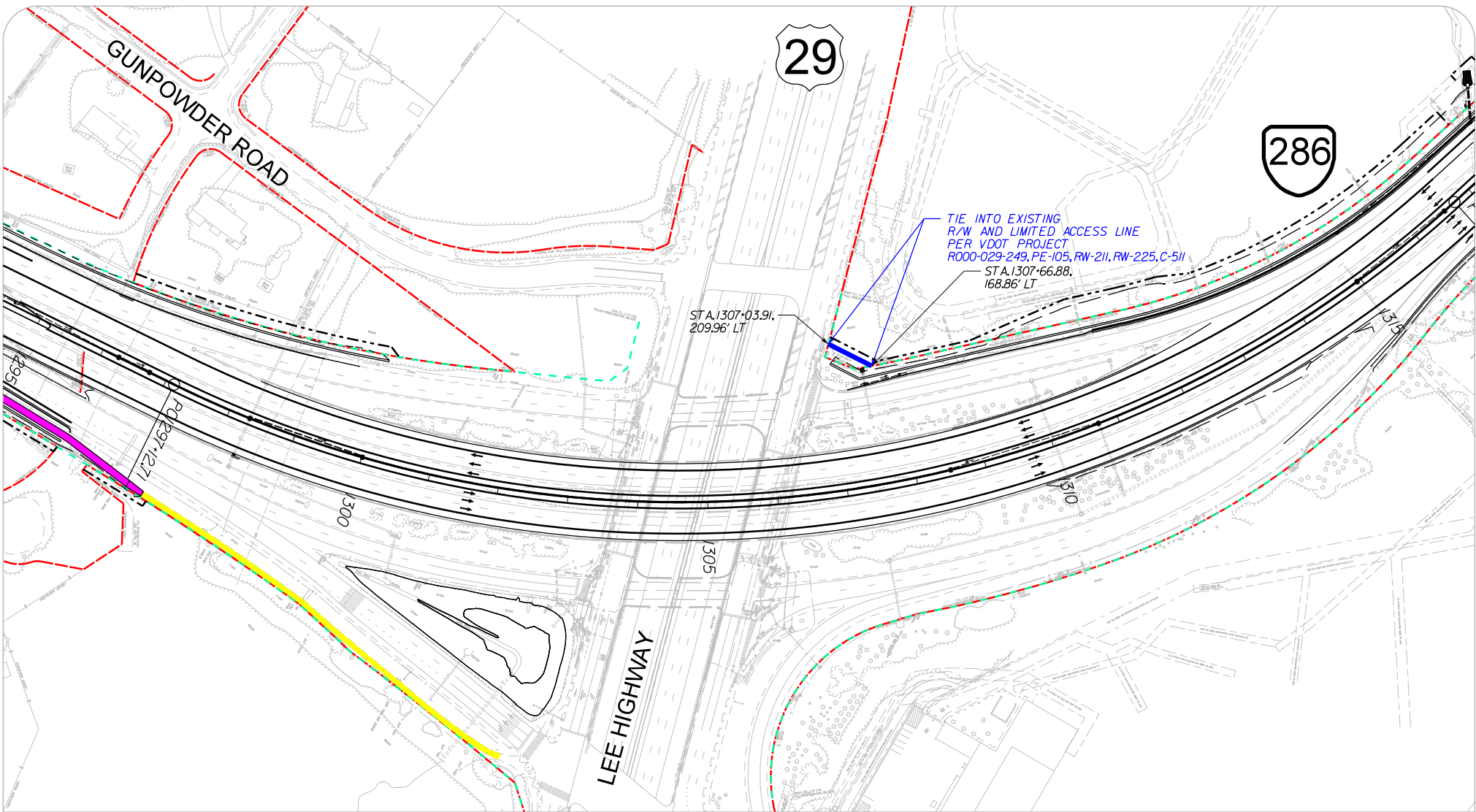
**Project Location**



**North Arrow and Scale**



ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPES HEAD ROAD  
INTERCHANGE



**Notes**

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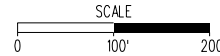
**Legend**

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- Prop. R/W
- Prop. Limited Access Line
- Prop. Fairfax County Parkway Trail
- Exist. Fairfax County Parkway Trail

**Project Location**



**North Arrow and Scale**



**ROUTE 286 (FAIRFAX COUNTY PARKWAY)  
WIDENING AND POPES HEAD ROAD  
INTERCHANGE**

### Proposed Right of Way and Limited Access

Fairfax County Parkway Widening and Interchange at Popes Head Road

Project No. 0286-029-259, UPC 107937 / Project No. 0286-029-365, UPC 111725

Commonwealth Transportation Board Meeting July 2020

Roadway B/L	Station	Offset (ft)	Radius (ft)	Direction	Type	Notes
RTE. 286	1033+93.32	789.04 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1033+96.89	788.20 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1034+09.73	619.72 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1034+75.91	439.25 RT	566 CW		Proposed R/W and Limited Access	
RTE. 286	1036+15.08	300.59 RT	1166 CW		Proposed R/W and Limited Access	
RTE. 286	1036+22.16	295.78 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1036+30.29	307.87 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1037+66.72	229.09 RT	1145 CW		Proposed R/W and Limited Access	
RTE. 286	1039+03.31	141.27 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1039+14.16	169.28 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1039+03.31	141.27 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1074+45.15	104.88 RT	- -		Existing R/W and Limited Access	End Limited Access
RTE. 286	1075+86.02	214.66 RT	- -		Proposed R/W and Limited Access	Begin Limited Access
RTE. 286	1076+10.05	155.62 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1076+40.25	114.30 RT	120 CW		Proposed R/W and Limited Access	
RTE. 286	1076+87.66	92.40 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1079+16.44	91.36 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1079+70.55	92.05 RT	1299 CW		Proposed R/W and Limited Access	
RTE. 286	1080+24.69	92.55 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1080+60.40	92.77 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1080+95.65	93.76 RT	426.74 CW		Proposed R/W and Limited Access	
RTE. 286	1081+30.87	96.34 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1082+01.39	101.28 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1082+91.28	105.81 RT	983 CW		Proposed R/W and Limited Access	
RTE. 286	1083+81.48	111.46 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1085+47.03	119.12 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1085+63.56	119.71 RT	- -		Proposed Limited Access	Tie Into Ex. R/W
RTE. 286	1086+79.64	122.71 RT	- -		Proposed Limited Access	End Limited Access
RTE. 286	1084+65.83	79.71 LT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1084+74.11	130.15 LT	51 CW		Proposed R/W and Limited Access	

**Proposed Right of Way and Limited Access**

Fairfax County Parkway Widening and Interchange at Popes Head Road

Project No. 0286-029-259, UPC 107937 / Project No. 0286-029-365, UPC 111725

Commonwealth Transportation Board Meeting July 2020

Roadway B/L	Station	Offset (ft)	Radius (ft)	Direction	Type	Notes
RTE. 286	1085+21.98	148.07 LT	- -		Proposed R/W and Limited Access	
RTE. 286	1087+09.56	116.51 LT	- -		Proposed R/W and Limited Access	End Limited Access
RTE. 286	1088+53.35	91.89 LT	- -		Existing R/W and Limited Access	Begin Limited Access
RTE. 286	1093+47.56	79.81 LT	- -		Existing R/W and Limited Access	End Limited Access
RTE. 286	1093+67.28	79.81 LT	- -		Existing R/W and Limited Access	Begin Limited Access
RTE. 286	1088+27.56	80.10 RT	- -		Existing R/W and Limited Access	Begin Limited Access
RTE. 286	1089+44.25	80.12 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1089+29.07	110.12 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1091+51.07	110.15 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1094+89.89	80.23 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1096+80.06	118.79 RT	- -		Proposed R/W and Limited Access	
RTE. 286	1097+75.00	80.30 RT	- -		Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1130+00.90	78.75 LT	- -		Proposed Limited Access	Tie Into Ex. Limited Access
RTE. 286	1130+42.14	73.11 LT	- -		Proposed Limited Access	
RTE. 286	1135+53.32	73.00 LT	- -		Proposed Limited Access	
RTE. 286	1138+01.95	73.00 LT	1359.42	CCW	Proposed Limited Access	
RTE. 286	1140+50.59	73.00 LT	- -		Proposed Limited Access	
RTE. 286	1141+51.25	72.63 LT	1528.29	CCW	Proposed Limited Access	
RTE. 286	1142+51.85	71.52 LT	- -		Proposed Limited Access	
RTE. 286	1144+76.35	68.72 LT	1322	CCW	Proposed Limited Access	
RTE. 286	1147+00.10	67.00 LT	- -		Proposed Limited Access	
RTE. 286	1149+38.07	67.00 LT	- -		Proposed Limited Access	
RTE. 286	1152+68.41	67.00 LT	3887	CW	Proposed Limited Access	
RTE. 286	1155+98.76	67.00 LT	- -		Proposed Limited Access	
RTE. 286	1160+29.47	67.00 LT	- -		Proposed Limited Access	
RTE. 286	1160+89.87	67.60 LT	3022	CCW	Proposed Limited Access	
RTE. 286	1161+50.25	69.41 LT	- -		Proposed Limited Access	
RTE. 286	1163+89.88	79.00 LT	- -		Proposed Limited Access	
RTE. 286	1168+75.00	79.00 LT	- -		Proposed Limited Access	
RTE. 286	1169+75.00	107.00 LT	- -		Proposed Limited Access	

### Proposed Right of Way and Limited Access

Fairfax County Parkway Widening and Interchange at Popes Head Road

Project No. 0286-029-259, UPC 107937 / Project No. 0286-029-365, UPC 111725

Commonwealth Transportation Board Meeting July 2020

Roadway B/L	Station	Offset (ft)	Radius (ft)	Direction	Type	Notes
RTE. 286	1171+66.21	122.38 LT	--	--	Proposed Limited Access	
RTE. 286	1173+18.00	134.59 LT	--	--	Proposed Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1174+51.50	145.33 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1174+62.90	207.20 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1175+96.54	286.77 LT	--	--	Proposed R/W and Limited Access	End Limited Access
RTE. 286	1176+61.52	420.26 LT	--	--	Proposed R/W and Limited Access	Begin Limited Access
RTE. 286	1179+30.33	391.14 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1179+97.45	382.97 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1181+18.27	398.84 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1182+29.72	322.74 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1186+06.80	188.52 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1186+89.23	172.59 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1187+99.13	169.70 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1190+97.81	157.27 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1192+96.70	128.92 LT	1440	CCW	Proposed R/W and Limited Access	
RTE. 286	1194+81.63	117.00 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1200+82.63	117.00 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1203+83.63	104.96 LT	--	--	Proposed R/W and Limited Access	
RTE. 286	1205+15.35	79.44 LT	--	--	Proposed R/W and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1162+61.92	92.34 RT	--	--	Proposed Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1162+61.92	72.33 RT	--	--	Proposed Limited Access	
RTE. 286	1163+91.92	72.36 RT	--	--	Proposed Limited Access	
RTE. 286	1163+91.92	80.36 RT	--	--	Proposed Limited Access	Tie Into Ex. Limited Access
RTE. 286	1169+25.86	92.33 RT	--	--	Proposed Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1171+43.93	115.44 RT	--	--	Proposed Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1171+95.95	170.23 RT	--	--	Proposed Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1173+02.90	150.57 RT	--	--	Proposed Limited Access	Tie Into Ex. R/W
RTE. 286	1173+76.43	158.92 RT	--	--	Proposed Right of Way and Limited Access	
RTE. 286	1177+38.07	216.66 RT	--	--	Proposed Right of Way and Limited Access	



**Proposed Right of Way and Limited Access**

Fairfax County Parkway Widening and Interchange at Popes Head Road

Project No. 0286-029-259, UPC 107937 / Project No. 0286-029-365, UPC 111725

Commonwealth Transportation Board Meeting July 2020

Roadway B/L	Station	Offset (ft)	Radius (ft)	Direction	Type	Notes
RTE. 655	505+11.71	197.28 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 655	507+73.45	98.60 RT	- -	- -	Proposed Right of Way and Limited Access	End Limited Access
RTE. 655	507+75.00	88.55 LT	- -	- -	Proposed Right of Way and Limited Access	Begin Limited Access
RTE. 655	506+75.00	99.03 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 655	506+00.71	128.76 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1183+10.37	215.71 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1186+47.17	167.93 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1188+48.19	129.41 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1189+46.64	117.01 RT	1232.02	CCW	Proposed Right of Way and Limited Access	
RTE. 286	1190+45.71	102.65 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1192+76.03	87.00 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1198+51.12	87.00 RT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1200+11.07	80.26 RT	- -	- -	Proposed Right of Way and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1218+84.53	79.76 LT	- -	- -	Proposed Right of Way and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1219+48.74	85.79 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1220+29.40	87.26 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1221+22.84	92.27 LT	1808.34	CW	Proposed Right of Way and Limited Access	
RTE. 286	1222+22.14	95.00 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1226+36.21	95.00 LT	- -	- -	Proposed Right of Way and Limited Access	
RTE. 286	1226+34.19	91.47 LT	- -	- -	Proposed Right of Way and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1307+03.91	209.96 LT	- -	- -	Proposed Right of Way and Limited Access	Tie Into Ex. R/W and Limited Access
RTE. 286	1307+66.88	168.86 LT	- -	- -	Proposed Right of Way and Limited Access	Tie Into Ex. R/W and Limited Access

### THREE MAJOR PARKWAYS NOW PRIMARY ROADS

#### ***New route numbers and funding for Fairfax County, Prince William, and Franconia-Springfield parkways***

FAIRFAX—The Commonwealth Transportation Board approved the transfer yesterday of the Fairfax County Parkway, Prince William Parkway and Franconia-Springfield Parkway to primary roads, making them eligible for new funding and maintenance priorities.

As primary roads, the routes can receive federal funding for paving, guardrail, bridge improvements and other projects. Federal funding typically covers 80 percent of the cost to maintain interstates and primary roads, with the remaining 20 percent from state funds.

The **Fairfax County Parkway** (Route 7100), which runs from Route 1 to Route 7, will be renamed **Route 286**. The 32-mile road carries between 22,000 and 75,000 vehicles per day.

The **Franconia-Springfield Parkway** (Route 7900), which runs from Beulah Road to the Fairfax County Parkway, will be renamed **Route 289**. The 4-mile road carries between 53,000 and 57,000 vehicles per day.

The **Prince William Parkway** (Route 3000), which runs from Route 1 to Route 234, will be renamed **Route 294**. The 16-mile road carries between 25,000 and 54,000 vehicles per day.

Over the next three months, VDOT will replace signs with the new route numbers and add additional signs indicating “Old Route 7100,” “Old Route 3000,” and “Old Route 7900.” Drivers will see the old route number alongside the new route number for about a year so that hotels, businesses, map companies, etc. have ample time to update their materials.

Roads may be considered for the transfer from secondary to primary when they meet a majority of certain criteria, such as carrying a minimum traffic volume; carrying a minimum percentage of out-of-state, truck, tractor-trailer, or bus traffic; and serving as a link for highways, county seats or sites of historic or scenic interest.

There are now about 470 miles of primary roads in northern Virginia, and 8,000 miles of primary roads statewide.

*Information in VDOT news releases was accurate at the time the release was published. For the most current information about projects or programs, please visit the project or program Web pages. You may find those by searching by keyword in the search Virginia DOT box above.*



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

*Agenda item # 3*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 14, 2020

#### MOTION

Made By:            Seconded By:            Action:

**Title: Limited Access Control Changes (LACCs) for Interstate 64 Hampton Roads  
Bridge-Tunnel Expansion  
Cities of Hampton and Norfolk**

**WHEREAS**, on October 4, 1956, the State Highway Commission, predecessor to the Commonwealth Transportation Board (CTB), designated the Interstate Highway System, including I-64, to be Limited Access Highways in accordance with then Article 3, Chapter 1, Title 33 of the *Code of Virginia* of 1950, as amended, and established the limited access line locations and limits as “the final locations of said routes, including all necessary grade separations, interchanges, ramps, etc.,” and

**WHEREAS**, State Highway Project 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607, B608, B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621, B622, B623, B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634 (UPC# 115008) provides for the widening of I-64 from four lanes to six lanes, with two of the lanes being High Occupancy Toll (HOT) lanes, and with provisions for part time HOT shoulder lanes, from 0.177 miles west of Settlers Landing Road in Hampton, Virginia to 0.640 miles west of Route 168 (Tidewater Drive) in Norfolk, Virginia, with two new bored tunnels under the Hampton Roads harbor and new trestles connecting the tunnels to the land on both sides (the “Project”). These improvements will improve safety and relieve congestion through the I-64 corridor; and

**WHEREAS**, the widening of I-64 requires a minor outward shift of the limited access line on the westbound side in the City of Hampton and on the eastbound side in the City of Norfolk, a relocated break in limited access for the relocation of a ramp and the elimination of limited access lines along the Willoughby Bay Bridge, per the Virginia Department of Transportation (VDOT) Southeast Region Right of Way Manager for Special Projects in consultation with the Attorney General's Office, as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets Table (attached); and

**WHEREAS**, the design builder, Hampton Roads Connector Partners, posted a Notice of Willingness for Public Comment ("Willingness") on May 28, 2020 in the *Daily Press*, on June 1, 2020 in *The Virginia-Pilot* and on June 4, 2020 in *The New Journal and Guide* for the proposed LACCs for the Project, including the current and proposed locations of the limited access lines, and allowed public input to be collected concerning the request. The Willingness expired on June 19, 2020, with no comments or other input from the public; and

**WHEREAS**, the economic, social and environmental effects of the Project have been duly examined and given proper consideration and this evidence, along with all other relevant evidence, has been carefully reviewed; and

**WHEREAS**, the VDOT Hampton Roads Bridge-Tunnel Expansion Project Office has reviewed and approved the traffic analysis report completed on April 13, 2020 and found that it adequately addresses the impacts from the Project and the proposed LACCs; and

**WHEREAS**, the Project is in compliance with National Environmental Policy Act requirements and a Final Supplemental Environmental Impact Statement was prepared identifying the corridor under an agreement between the VDOT and the Federal Highway Administration (FHWA) and approved on June 12, 2017; an Environmental Assessment Re-evaluation of the Final Supplemental Environmental Impact Statement, incorporating the proposed managed lanes was prepared under an agreement between the VDOT and the FHWA and approved on October 23, 2018; and

**WHEREAS**, the Project is located within an attainment area for ozone, and National Ambient Air Quality Reports were completed by VDOT on August 9, 2016 and it was determined that the Project will not have an adverse impact on air quality; and

**WHEREAS**, the Project is in the Cities of Hampton and Norfolk and is supported by letters from the City of Hampton Director of Public Works dated June 17, 2020 and the City of Norfolk Director of Public Works dated June 4, 2020; and

**WHEREAS**, the FHWA provided approval for State Highway Project 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607, B608, B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621, B622, B623, B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634 (UPC# 115008) and the proposed LACCs on June 23, 2020; and

**WHEREAS**, the Chief Engineer has determined that the proposed LACCs will not adversely affect the safety or operation of the highways; and

**WHEREAS**, the VDOT has reviewed the requested LACCs and determined that all are in compliance with §33.2-401 of the *Code of Virginia* and that the requirements of 24 VAC 30-401-20 have been met; and

**WHEREAS**, the VDOT recommends approval of the proposed LACCs as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets Table (attached).

**NOW, THEREFORE, BE IT RESOLVED**, in accordance with §33.2-401 of the *Code of Virginia* and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*, that the CTB hereby finds and concurs in the determinations and recommendations of the VDOT made herein, and directs that I-64 continue to be designated as a limited access control area, with the boundaries of limited access control being modified from the current locations as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets Table (attached).

**BE IT FURTHER RESOLVED**, the Commissioner of Highways is authorized to take all actions and execute any and all documents necessary to implement such changes.

#####

**Proposed Limited Access Control Changes (LACCs)**  
**Interstate 64 Hampton Roads Bridge-Tunnel Expansion**  
**Project 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607,**  
**B608, B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621,**  
**B622, B623, B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634**  
**UPC# 115008**  
**Cities of Hampton and Norfolk**

**Issues:** The area designated as limited access previously approved for I-64 between Settlers Landing Road in Hampton, Virginia and Route 168 (Tidewater Drive) in Norfolk, Virginia needs to be modified to accommodate the I-64 Hampton Roads Bridge-Tunnel Expansion. These changes require the approval of the Commonwealth Transportation Board (CTB) pursuant to §33.2-401 of the *Code of Virginia*, and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*.

**Facts:**

- Limited access control for I-64 was previously established on October 4, 1956, by the State Highway Commission, predecessor to the Commonwealth Transportation Board (CTB), which designated the Interstate Highway System, including I-64, to be Limited Access Highways in accordance with then Article 3, Chapter 1, Title 33 of the *Code of Virginia* of 1950, as amended, and established the limited access line locations and limits as “the final locations of said routes, including all necessary grade separations, interchanges, ramps, etc.”.
- State Highway Project 0064-M06-032, C501 (UPC# 115008) provides for the widening of I-64 from four lanes to six lanes, with two of the lanes being High Occupancy Toll (HOT) lanes, and with provisions for part time HOT shoulder lanes, from 0.177 miles west of Settlers Landing Road in Hampton, Virginia to 0.640 miles west of Route 168 (Tidewater Drive) in Norfolk, Virginia, with two new bored tunnels under the Hampton Roads harbor and new trestles connecting the tunnels to the land on both sides. These improvements will impact the existing limited access control lines as shown on the Limited Access Line Exhibits and the Limited Access Control Point Stations and Offsets Table (attached).
- The design builder, Hampton Roads Connector Partners, posted a Notice of Willingness for Public Comment (“Willingness”) on May 28, 2020 in the *Daily Press*, on June 1, 2020 in *The Virginia-Pilot* and on June 4, 2020 in *The New Journal and Guide* for the proposed LACCs for the Project, including the current and proposed locations of the limited access lines, and allowed public input to be collected concerning the request. The Willingness expired on June 19, 2020, with no comments or other input from the public.
- The economic, social, and environmental effects of the Project have been duly examined and given proper consideration, and this evidence, along with all other relevant evidence, has been carefully reviewed.

- The Virginia Department of Transportation (VDOT) Hampton Roads Bridge-Tunnel Expansion Project Office has reviewed and approved the traffic analysis report completed April 13, 2020, and found that it adequately addresses the impacts from the Project and the proposed LACCs.
- The Project is in compliance with National Environmental Policy Act requirements and a Final Supplemental Environmental Impact Statement was prepared identifying the corridor under an agreement between VDOT and the Federal Highway Administration (FHWA) and approved on June 12, 2017; an Environmental Assessment Re-evaluation of the Final Supplemental Environmental Impact Statement incorporating the proposed managed lanes was prepared under an agreement between VDOT and FHWA and approved on October 23, 2018.
- The Project is located within an attainment area for ozone, and National Ambient Air Quality Reports were completed by VDOT on August 9, 2016, and it was determined that the Project will not have an adverse impact on air quality.
- The Project is in the Cities of Hampton and Norfolk, and is supported by letters from the City of Hampton Director of Public Works dated June 17, 2020, and the City of Norfolk Director of Public Works dated June 4, 2020.
- The FHWA provided the approval for State Highway Project 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607, B608, B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621, B622, B623, B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634 (UPC# 115008) and the proposed LACCs on June 23, 2020.
- The Chief Engineer has determined that the proposed LACCs will not adversely affect the safety or operation of the highways.
- The proposed LACCs are in compliance with §33.2-401 of the *Code of Virginia* and with the policies and requirements of the CTB contained in Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*.

**Recommendations:** It is recommended, pursuant to §33.2-401 of the *Code of Virginia*, and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code*, that the I-64 corridor continue to be designated as a Limited Access Highway with the LACCs modified and/or established as shown on the attached exhibits. This action will modify the limited access line and right of way previously approved by the CTB's predecessor, the State Highway Commission, on October 4, 1956.

CTB Decision Brief  
Proposed Limited Access Control Changes (LACCs)  
I-64 Hampton Roads Bridge-Tunnel Expansion  
Cities of Hampton and Norfolk  
July 14, 2020  
Page 3 of 3

**Action Required by CTB:** The *Code of Virginia* §33.2-401 and Title 24, Agency 30, Chapter 401 of the *Virginia Administrative Code* require a majority vote of the CTB to approve the recommended LACCs. The CTB will be presented with a resolution for a formal vote to approve the LACCs for the Project and to provide the Commissioner of Highways the requisite authority to execute all documents necessary to implement the LACCs.

**Result, if Approved:** The Commissioner of Highways will be authorized to execute any and all documents needed to comply with the resolution, and the I-64 Hampton Roads Bridge-Tunnel Expansion Project will move forward.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** A total of two hundred thirty-nine (239) citizens attended the two (2) Hearings per the sign in sheets. Thirty-eight (38) written comments were received, and nine (9) oral comments recorded by the court reporter. In addition, nine (9) emailed comments were received by VDOT.





# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.  
Commissioner

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

June 10, 2020

Mr. Thomas Nelson, Jr. P.E.  
Division Administrator  
Federal Highway Administration  
P.O. Box 10249  
400 N. 8<sup>th</sup> Street Room 750  
Richmond, Virginia 23240-0249

Attention Ms. Janice L. Williams

Interstate I-64  
I-64 Hampton Roads Bridge Tunnel Expansion  
Projects: 0064-M06-032, P101, R201, C501, B601-B634  
Federal Project Number NHPP-5A03 (992)  
UPC 115008  
Cities of Hampton and Norfolk  
Request for Modified Limited Access Line

Dear Mr. Nelson,

As you are aware, The Virginia Department of Transportation (VDOT) is developing plans for the widening and construction of I-64, between Exit 267 (Settlers Landing Road, U. S. Route 60) and Exit 276 (Little Creek Road, VA Route 165), including the construction of two bored tunnels and the development of HOT lanes, in the Cities of Hampton and Norfolk, Virginia. This project will provide additional capacity along the I-64 corridor in the region, improving operations and safety, reducing congestion and improving travel time reliability.

As a result of the design of the project, the Limited Access Line along the Interstate I-64 between Exit 267 and Exit 276 needs to be modified to encompass the required construction.

I-64 was designated as a Limited Access Highway by the State Highway Commission, predecessor to the Commonwealth Transportation Board (CTB), on October 4, 1956.

The proposed Project is in compliance with National Environmental Policy Act (NEPA) requirements and a Supplemental Environmental Impact Statement (SEIS) was developed and for which the FHWA issued a Record of Decision on June 12, 2017. Following the designation of HOT lanes for the I-64 Corridor in Hampton Roads, an Environmental Assessment (EA) for the re-evaluation of the FEIS was prepared. The Finding of No Significant Impact was issued by the FHWA on October 23, 2018.

Therefore, VDOT is requesting your concurrence in modifications to the existing limited access lines along I-95 as shown on the attached exhibits and the control point table. These include minor modifications in the areas of the Mallory Street, Bayville Street and Little Creek Road interchanges and the elimination of Limited Access Control along the bridge structure over Willoughby Bay

Attached please find a copy of the Title Sheets for the project segments with Limited Access Control Changes, a Location Map, exhibits showing each of the individual areas of LACC, and the Limited Access Point Table and Design Plan Sheets for the affected areas.

VDOT approves of the Limited Access Control Changes as shown on the exhibit and point control table. We are requesting a quick review and approval of these limited access changes so that the Commonwealth Transportation Board can approve the changes at their meeting on July 15, 2020.

If additional information is needed, please contact Mr. Richard C. Worssam, P.E. at 804.840.7059 or richard.worssam@vdot.virginia.gov.

Sincerely,

Susan H. Keen, P.E.  
State Location and Design Engineer

Approved: \_\_\_\_\_ Date \_\_\_\_\_

Enclosure  
Exhibits



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.  
Commissioner

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

April 24, 2020

### MEMORANDUM

**TO:** James S. Utterback, PMP  
VDOT Project Director  
HRBT Expansion Project

**FROM:** Ryan A, Crisp  
VDOT Southeast Right-of-Way Manager  
HRBT Expansion Project

**SUBJECT:** Willoughby Bay Bridge Right-of-Way – Limited Access

In accordance with Virginia Department of Transportation policy, a review of the limited access line along Willoughby Bay Bridge was completed. There was some discussion concerning the portion of the limited access line that is currently underwater. The Office of the Attorney General was consulted. The Department has reached the following conclusions:

- The existing limited access line that is located above navigable water and below the mean-low water line along Willoughby Bay Bridge, would be unenforceable by the Department, but still is of record.
- Enforcement of the limited access line along this portion of Interstate 64 begins and ends at the mean-low water line of navigable waters.
- Any right-of-way plans or plats that will be completed and recorded need to indicate the current conditions, which include identification of the existing limited access line. Not including the limited access line on the construction plans that will not be recorded is permissible. The limited access line should be shown on right-of-way plans or plats that will be recorded as part of the project unless and until the limited access line is moved or vacated by the Commonwealth Transportation Board.

April 24, 2020  
Page Two

If you have any questions or concerns, please do not hesitate to contact me at 757-956-3239 or [Ryan.crisp@vdot.virginia.gov](mailto:Ryan.crisp@vdot.virginia.gov).

Sincerely,

A handwritten signature in blue ink that reads "Ryan Crisp". The signature is written in a cursive, flowing style.

Ryan Crisp  
Right-of-Way Manger  
Special Projects – Southeast Region

cc: Mr. Peter Reilly, Deputy Project Director  
Mr. Richard Worssam, Assistant State Location and Design Engineer  
Ms. Chandra Lantz, Senior Assistant Attorney General/Section Chief  
Mr. C. L. Griggs, Jr., State Right-of-Way Manager  
Mr. Richie Stuart, Assistant State Right-of-Way Manager

June 4, 2020

Mr. Jose Ignacio Alos Martin  
Hampton Roads Connector Partners  
240 Corporate Blvd, Suite 400  
Norfolk, VA 23502

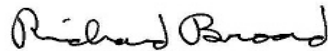
Re: HRBT Expansion Limited Access Conversion

Dear Mr. Alos,

Please accept this letter as confirmation that the City of Norfolk, Virginia has reviewed and supports the limited access revisions along Interstate 64 within the City's limits as required for the Hampton Roads Bridge Tunnel Expansion Project (0064-M06-032).

Please contact ROW Administrator, Freda Burns (757) 636-3774 (24 hours) or City Surveyor Katy Marchello (757) 664-4645, if you have any questions or need additional information. The City of Norfolk looks forward to the successful completion of this project.

Sincerely,



Richard Broad  
Director of Public Works

# Re: LACC UPC 115008 - I-64 HAMPTON ROADS BRIDGE-TUNNEL EXPANSION

**Rogerson, George** <[george.rogerson@vdot.virginia.gov](mailto:george.rogerson@vdot.virginia.gov)> Jun 18, 2020,  
4:03 PM

to Lori, Neil

Lori,

Thank you very much.

George

On Thu, Jun 18, 2020 at 3:58 PM Lori Snider <[Lori.Snider@vdot.virginia.gov](mailto:Lori.Snider@vdot.virginia.gov)> wrote:  
I approve of this limited access control change from a Right of Way & Utilities perspective.

Thank you,  
Lori

**From:** Hord, Neil <[neil.hord@vdot.virginia.gov](mailto:neil.hord@vdot.virginia.gov)>  
**Sent:** Thursday, June 18, 2020 3:10 PM  
**To:** Lori Snider <[lori.snider@vdot.virginia.gov](mailto:lori.snider@vdot.virginia.gov)>  
**Cc:** George Rogerson <[george.rogerson@vdot.virginia.gov](mailto:george.rogerson@vdot.virginia.gov)>  
**Subject:** Fwd: LACC UPC 115008 - I-64 HAMPTON ROADS BRIDGE-TUNNEL  
EXPANSION

Lori,

I have received the attached project related LACC from L&D. I have reviewed it and recommend your approval from a right of way and utilities perspective. If you concur please respond to George Rogerson who is included in this email. Thank you

Neil

**Minutes of the Meeting of the State Highway  
Commission of Virginia, held in  
Richmond  
October 4, 1958**

The Commission met in the Central Office Building, Richmond, Virginia, at 9:00 A.M., Thursday, October 4, 1958. The following members were present: Messrs. E. P. Barrow, S. S. Flythe, S. D. May, Burgess E. Nelson, Wm. A. Wright and J. A. Anderson.

The meeting was called to order by the Chairman.

The Chairman read a letter from Mr. Howard O. Rogers stating that he would not be able to attend because of illness.

On motion made and seconded, the minutes of the August 9-10 meeting were approved.

Moved by Mr. May, seconded by Mr. Barrow, that the permits issued from the August 9-10 meeting to date, inclusive, as recorded in the Auditing Division, be approved. Motion carried.

Moved by Mr. May, seconded by Mr. Barrow, that the permits cancelled by the Commissioner from the August 9-10 meeting to date, inclusive, as authorized June 25, 1947, and recorded in the Auditing Division, be approved. Motion carried.

Moved by Senator Nelson, seconded by Senator Wright, that the Commission confirm award of contract on bids received August 15 for the construction of Project 1887-15-18, Route 615, Bridge and Approaches Three Creek, Southampton County, to the low bidder, Norfolk Contracting Co., Norfolk, Va., at the bid of \$102,949.41, that 10% additional be set aside to cover the cost of engineering and additional work and \$1,064.54 for work by the A. & D. Railroad, making a total of approximately \$114,500.00 chargeable to this project; to be financed 50/50 State and Federal. Motion carried.

Moved by Senator Wright, seconded by Mr. Barrow, that the Commission confirm award of contract on bids received August 15 for the construction of Project 1307-24, Route 600, S. End of Bridge over Claytons Mill Creek-0.864 Mile N. Rockbridge County Line, Augusta County, to the low bidder, Bohls Brothers, Inc., Staunton, Va., at the bid of \$67,435.15 and that 10% additional be set aside to cover the cost of engineering and additional work, making a total of approximately \$74,180.00 chargeable to this project; to be financed 50/50 State and Federal. Motion carried.

Moved by Mr. Barrow, seconded by Mr. Flythe, that the Commission confirm award of contract on bids received August 15 for the construction of Project 1881-10, Routes 681, 640, 0.01 Mile E. of W. Int. Route 661, (E. of Pizarro)-Franklin County Line, Floyd County, to the low bidder, D. E. Worley Construction Co., Rocky Mount, Va., at the bid of \$127,856.70, that 10% additional be set aside to cover the cost of engineering and additional work and \$1,226.60 for work by State Forces (not included in contract), making a total of approximately \$141,960.00 chargeable to this project; to be financed with \$71,580.00 State and \$70,520.00 Federal Funds. Motion carried.

Moved by Mr. Flythe, seconded by Senator Nelson, that, Whereas, under authority of Section 33-118.2 of the 1950 Code of Virginia, as amended, request is made by City of Warwick for payment at the base rate of \$500 per Mile annually on additional streets meeting the required standards; Now, Therefore, be it resolved, that quarterly payments at the base rate of \$500 Per Mile annually be made to the City of Warwick on additional streets totaling 11.20 miles, effective beginning the second quarter, October 1, 1956. Motion carried.

Moved by Mr. Flythe, seconded by Senator Nelson, that, Whereas, under authority of Section 33-118.2 of the 1950 Code of Virginia, as amended, request is made by City of Waynesboro for payment at the base rate of \$500 per Mile annually on additional streets meeting the required standards; Now, Therefore, be it resolved, that quarterly payments at the base rate of \$500 Per Mile annually be made to the City of Waynesboro on additional streets totaling 10.612 miles, effective beginning the second quarter, October 1, 1956. Motion carried.

Moved by Mr. Flythe, seconded by Senator Nelson, that, Whereas, under authority of Section 33-118.2 of the 1950 Code of Virginia, as amended, request is made by the Town of Wytheville for payment at the base rate of \$500 Per Mile annually on additional streets meeting the required standards; Now, Therefore, be it resolved, that quarterly payments at the base rate of \$500 Per Mile annually be made to the Town of Wytheville on additional streets totaling 0.984 Mile, effective beginning the second quarter, October 1, 1956. Motion carried.

Moved by Mr. Flythe, seconded by Senator Nelson, that, it so be declared that, Whereas, by action of the Congress of the United States, whereby all routes on the National System of Interstate and Defense Highways are to be constructed to interstate standards and whereas, one of the requirements of interstate standards is the control of access to these routes; Therefore, be it resolved that all routes on the National System of Interstate and Defense Highways within the confines of the Commonwealth of Virginia, upon determining the final location of said routes, including all necessary grade separations, interchanges, ramps, etc., are here and now designated Limited Access Highways, pursuant to Article 8, Chapter 1, Title 33, of the Code of Virginia of 1950, as amended. Motion carried.

On motion made by Senator Nelson, seconded by Mr. Barrow, the Chairman was instructed to report to the Bureau of Public Roads, at a meeting called for October 9, that the Virginia Department of Highways will undertake one-third of the cost of operation and maintenance of the proposed bridge over the Potomac River at Jones Point, with the thought that the other two-thirds shall be borne by the State of Maryland and the District of Columbia. This could be handled by written agreement looking to appropriate Federal legislation.





# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.  
Commissioner

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

July 1, 2020

The Honorable Shannon Valentine  
The Honorable Stephen C. Brich, P. E.  
The Honorable Jennifer Mitchell  
The Honorable Jerry L. Stinson  
The Honorable Mary Hughes Hynes  
The Honorable Allison DeTuncq  
The Honorable Bert Dodson, Jr.  
The Honorable W. Sheppard Miller III  
The Honorable Carlos M. Brown  
The Honorable Cedric Bernard Rucker  
The Honorable Stephen A. Johnsen  
The Honorable F. Dixon Whitworth, Jr.  
The Honorable E. Scott Kasprowicz  
The Honorable Raymond D. Smoot, Jr.  
The Honorable Marty Williams  
The Honorable John Malbon  
The Honorable Greg Yates

Subject: Approval of Limited Access Control Changes (LACCs) for the Interstate 64 Hampton Roads Bridge-Tunnel Expansion in the Cities of Hampton and Norfolk.

Dear Commonwealth Transportation Board Members:

The Department has initiated the above request for LACCs for your consideration. The proposed LACCs on State Highway Projects 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607, B608, B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621, B622, B623, B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634 have been determined as a necessary design feature and recommended for approval by the Department's staff.

I have reviewed the staff's recommendations and determined that approving these LACC's will not adversely affect the safety or operation of the affected highway network. I have determined that this request should be considered by the Board.

Sincerely,

Barton A. Thrasher, P.E.  
Chief Engineer



June 17, 2020

Mr. Jose Ignacio Alos Martin  
Hampton Roads Connector Partners  
240 Corporate Blvd, Suite 400  
Norfolk, VA 23502

**Re:** HRBT Expansion Limited Access Conversion

Dear Mr. Alos,

Please accept this letter as confirmation that the City of Hampton, Virginia has reviewed and supports the limited access revisions along Interstate 64 within the City's limits as required for the Hampton Roads Bridge Tunnel Expansion Project (0064-M06-032).

Please contact ROW Administrator, Cindy Hurr (757) 727-6785 [cindy.hurr@hampton.gov](mailto:cindy.hurr@hampton.gov) or City Surveyor Randel Edwards (757) 728-2029 [rjedwards@hampton.gov](mailto:rjedwards@hampton.gov), if you have any questions or need additional information. The City of Hampton looks forward to the successful completion of this project.

If any additional information is required, please contact me at 757-726-2950.

Sincerely,

A handwritten signature in cursive script that reads "Jason Mitchell".

Jason Mitchell  
Director of Public Works  
City of Hampton  
22 Lincoln Street  
Hampton VA 23669

cc: McCord Newsome, P.E. – Interim City Engineer  
Stefanie Strachan - Accountant-Sr, Public Works  
Sandon S. Rogers, P.E., LS – Sr Engineer VDOT  
File

Hampton Roads Bridge Tunnel

PROPOSED LIMITED ACCESS CONTROL CHANGES

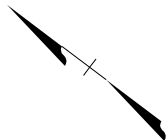
VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

SHT 1 of 19

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



BEGIN LIMITED ACCESS LINE

266.47 IT  
2529+81.98

EXISTING R/W LINE

PROPOSED LIMITED ACCESS LINE

EXISTING LIMITED ACCESS LINE

MALLORY ST

107.93 IT  
2529+82.45

EXISTING R/W LINE

PROPOSED LIMITED ACCESS LINE

83.97 IT  
2530+98.72

EXISTING R/W LINE

77.92 IT  
2529+80.27

HOME PLACE

EXISTING R/W LINE

EXISTING R/W & LIMITED ACCESS LINE

2527

2528

2529

2530

EXISTING LIMITED ACCESS LINE

2531

2532

538

539

I-64 WB

540

541

542

543

I-64 EB

I-64 EB RAMP



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

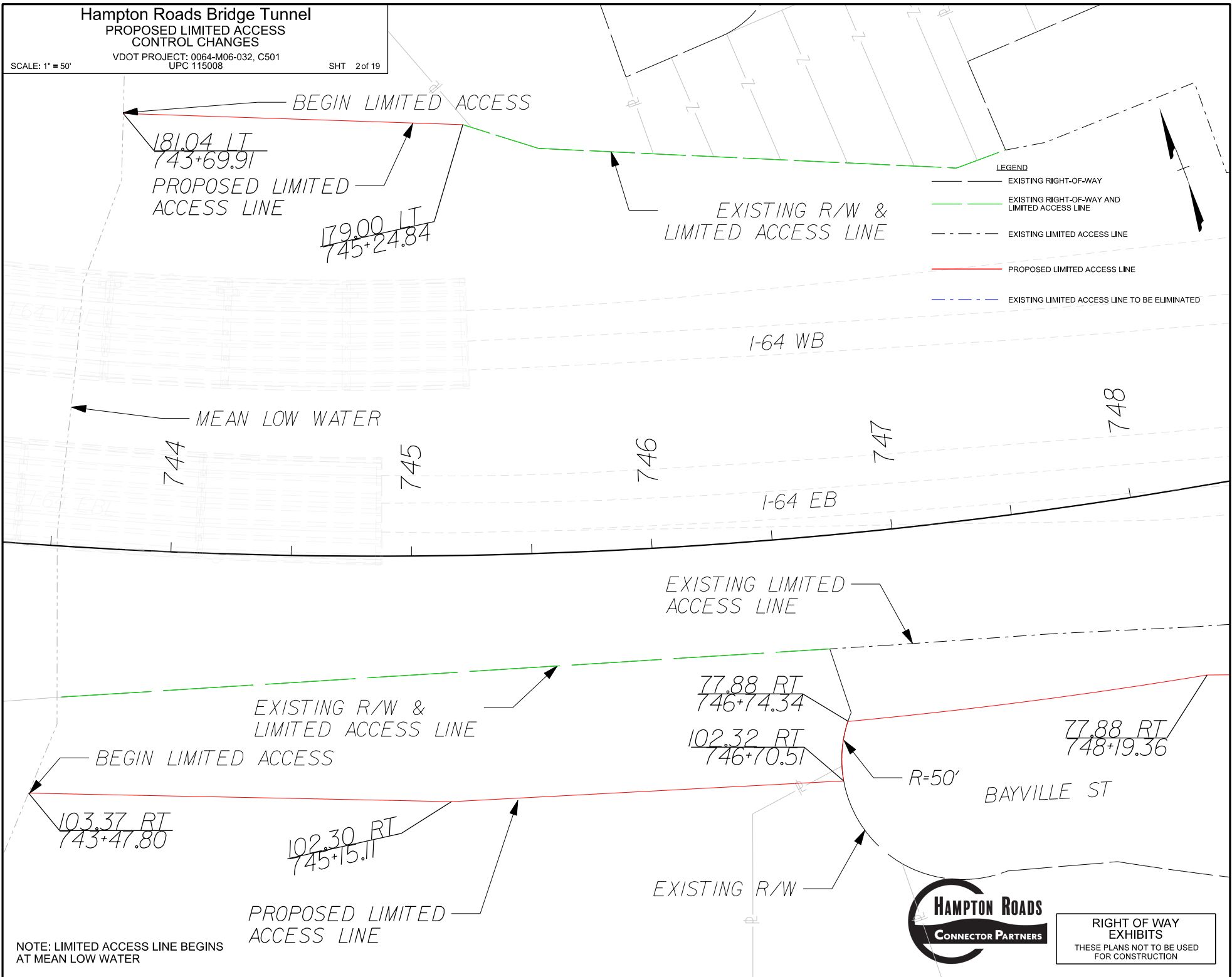
Hampton Roads Bridge Tunnel

PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

SHT 2 of 19



- LEGEND
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

NOTE: LIMITED ACCESS LINE BEGINS AT MEAN LOW WATER



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

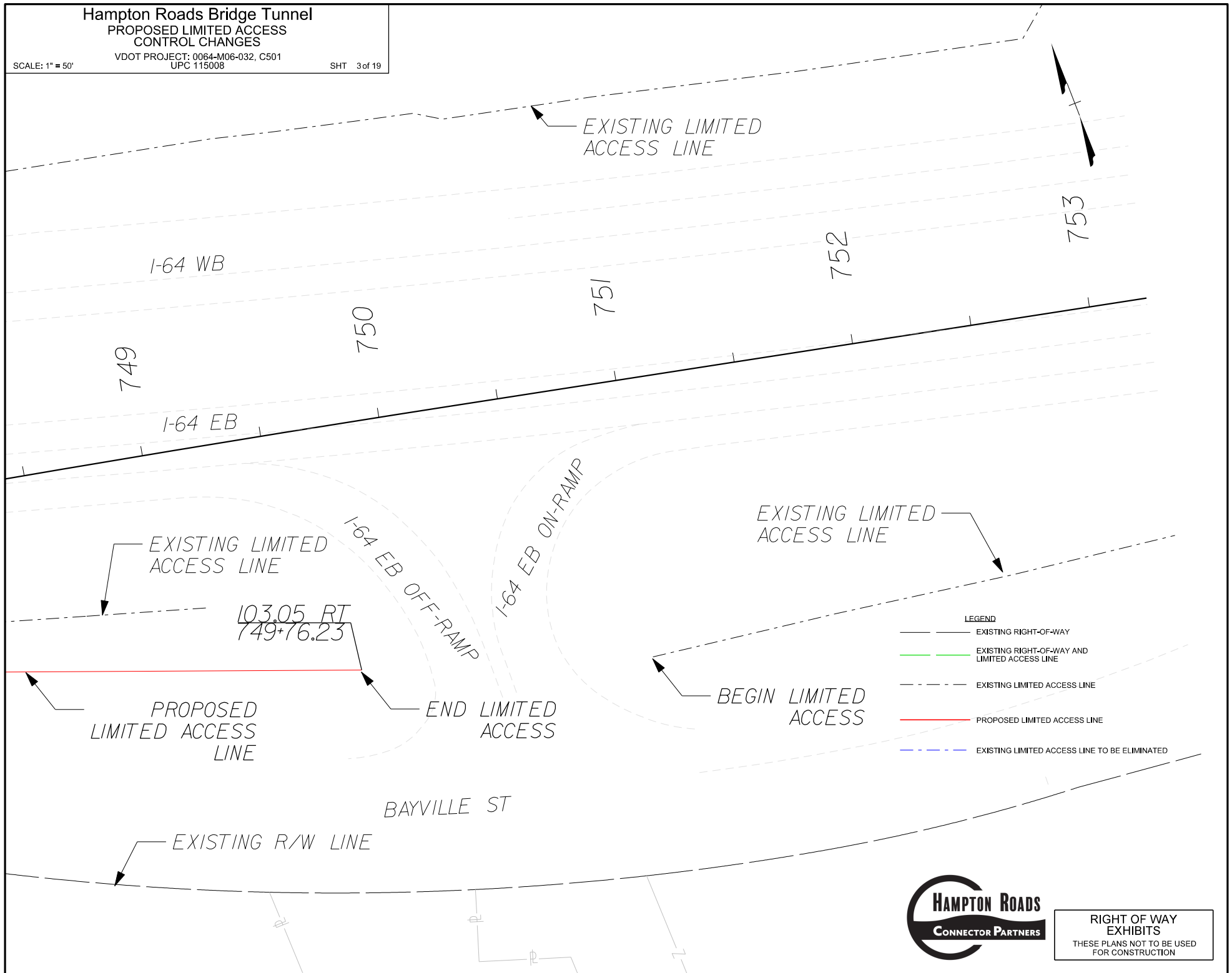
# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 3 of 19



### LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

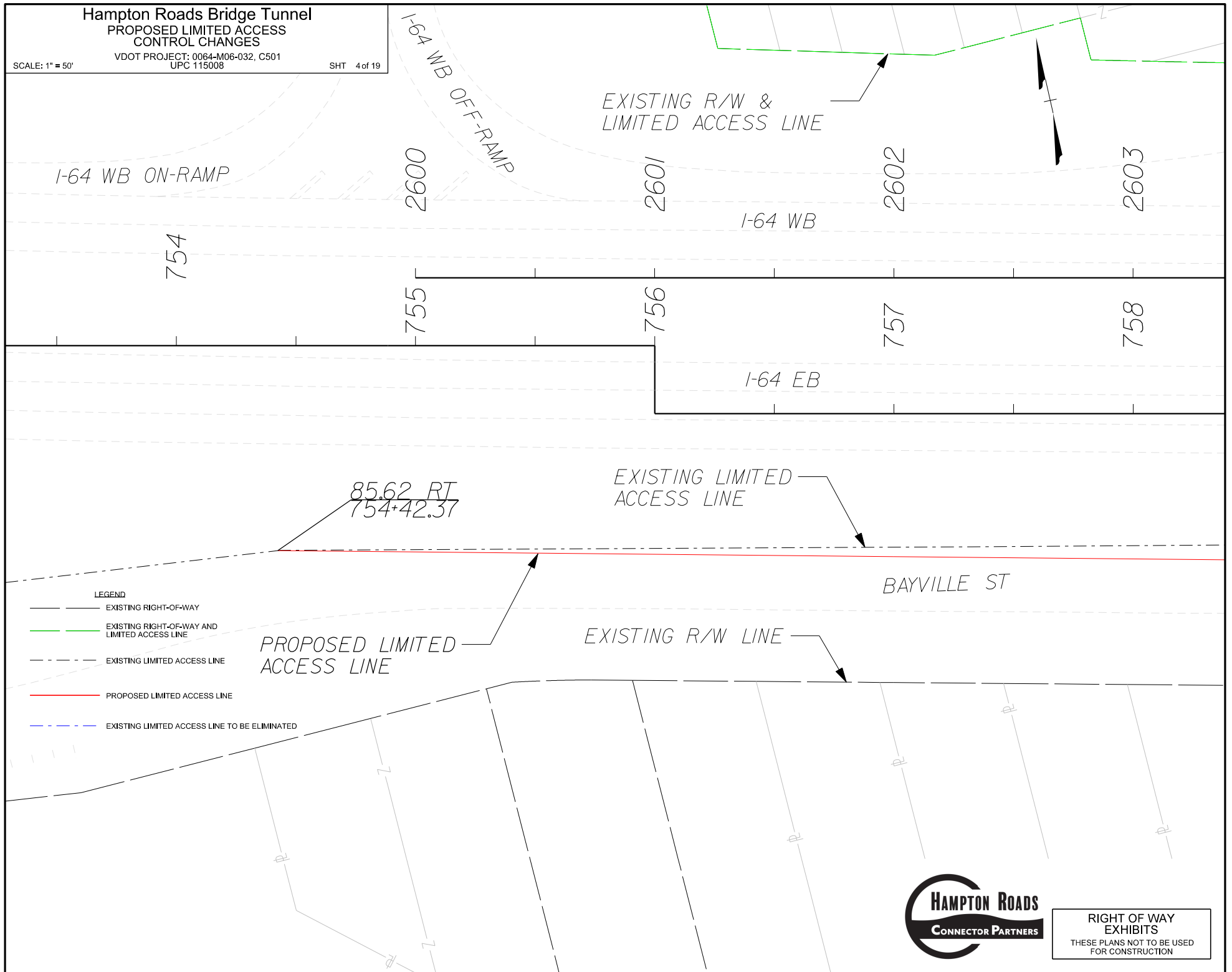
# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 4 of 19



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

SHT 5 of 19

EXISTING R/W & LIMITED ACCESS LINE

TRUCK INSPECTION STATION

2604

2605

2606

2607

2608

I-64 WB

759

760

761

762

763

I-64 EB

EXISTING LIMITED ACCESS LINE

61.14 RT  
758+40.96

64.01 RT  
760+58.09

70.50 RT  
761+93.72

BAYVILLE ST

EXISTING R/W LINE

PROPOSED LIMITED ACCESS LINE

### LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

Hampton Roads Bridge Tunnel

PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

SHT 6 of 19

EXISTING LIMITED ACCESS LINE

EXISTING R/W & LIMITED ACCESS LINE

2609

2610

2611

2612

2613

764

765

766

767

768

I-64 WB

I-64 EB

90.76 RT  
764+18.12

EXISTING LIMITED ACCESS LINE

BAYVILLE ST

PROPOSED LIMITED ACCESS LINE

BAYVILLE ST

EXISTING R/W LINE

EXISTING R/W LINE

EXISTING R/W LINE

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
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RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

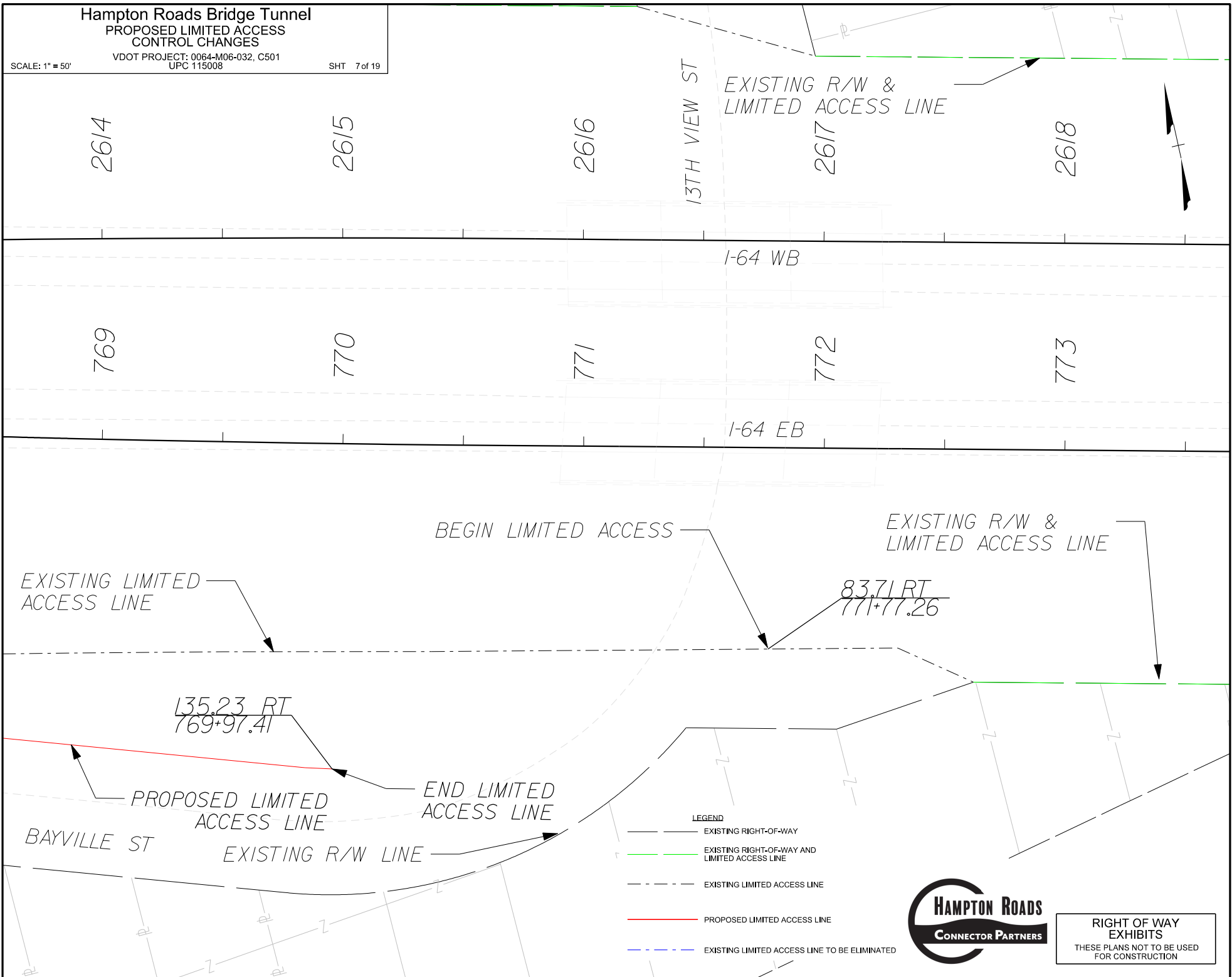


Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 7 of 19



EXISTING R/W &  
LIMITED ACCESS LINE

2614

2615

2616

2617

2618

13TH VIEW ST

I-64 WB

769

770

771

772

773

I-64 EB

BEGIN LIMITED ACCESS

EXISTING R/W &  
LIMITED ACCESS LINE

EXISTING LIMITED  
ACCESS LINE

83.71 RT  
771+77.26

135.23 RT  
769+97.41

PROPOSED LIMITED  
ACCESS LINE

END LIMITED  
ACCESS LINE

BAYVILLE ST

EXISTING R/W LINE

- LEGEND
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
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RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

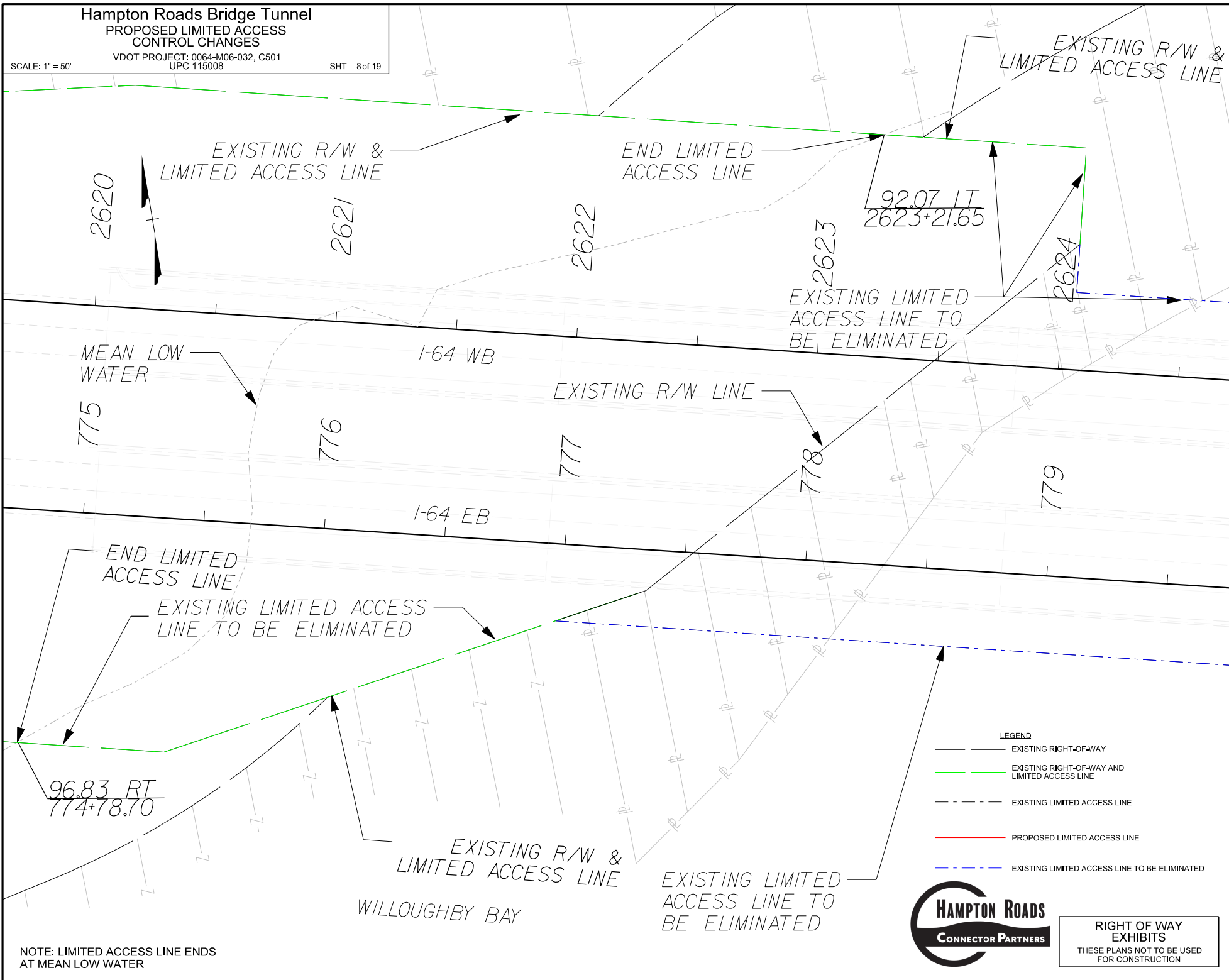
Hampton Roads Bridge Tunnel

PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 8 of 19

SCALE: 1" = 50'



EXISTING R/W & LIMITED ACCESS LINE

EXISTING R/W & LIMITED ACCESS LINE

END LIMITED ACCESS LINE

92.07 LT  
2623+21.65

EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

MEAN LOW WATER

I-64 WB

EXISTING R/W LINE

I-64 EB

END LIMITED ACCESS LINE

EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

96.83 RT  
774+78.70

EXISTING R/W & LIMITED ACCESS LINE

EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

WILLOUGHBY BAY

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

NOTE: LIMITED ACCESS LINE ENDS AT MEAN LOW WATER



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

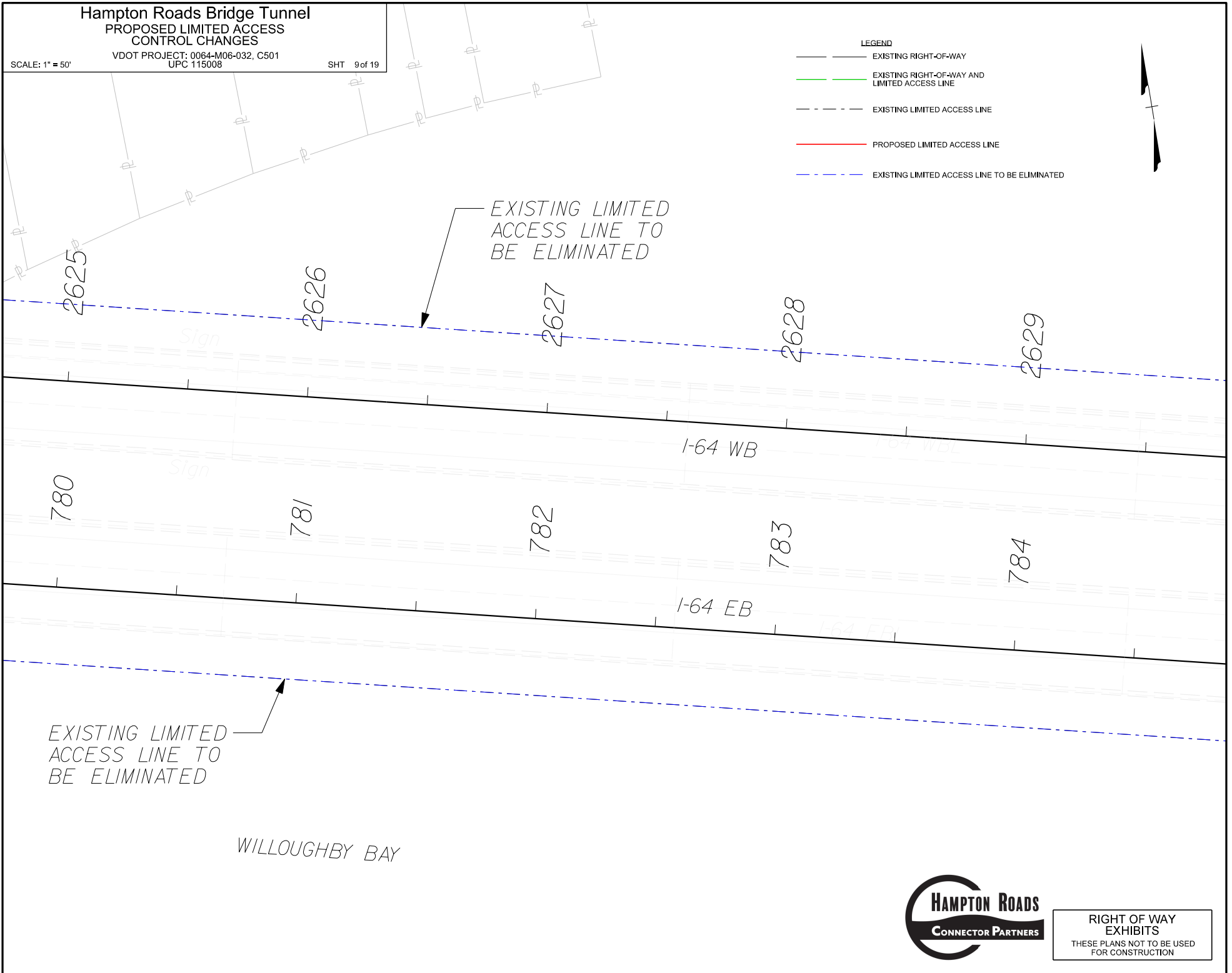
SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 9 of 19

### LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

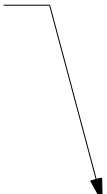
SHT 10 of 19

### LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



2630

2631

2632

2633

2634

I-64 WB

785

786

787

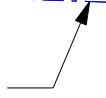
788

789

I-64 EB

WILLOUGHBY BAY

EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY EXHIBITS  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

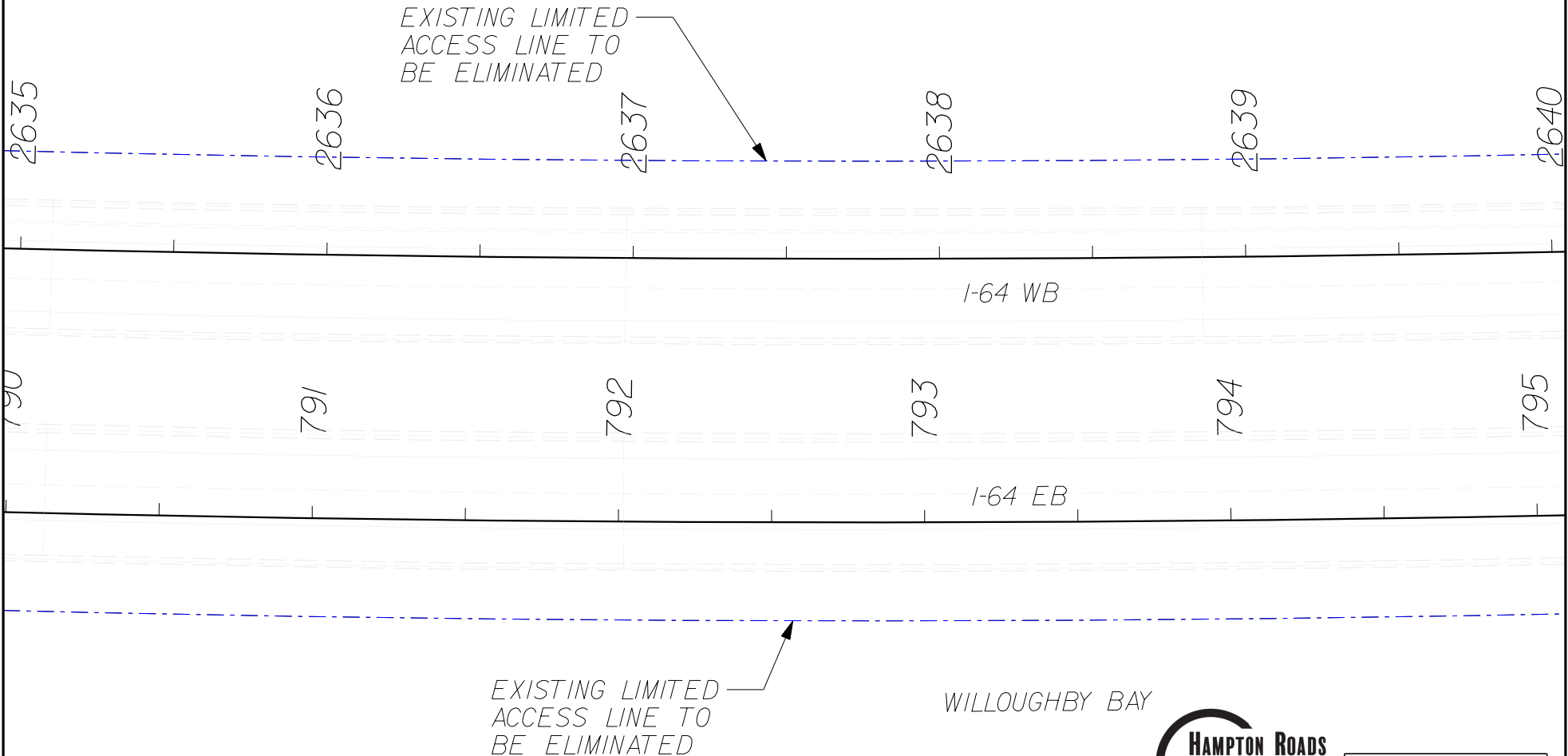
Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 11 of 19

- LEGEND
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 12 of 19

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED

2641

2642

2643

2644

2645

Overhead Sign

I-64 WB

796

797

798

799

800

I-64 EB

EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED

WILLOUGHBY BAY



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

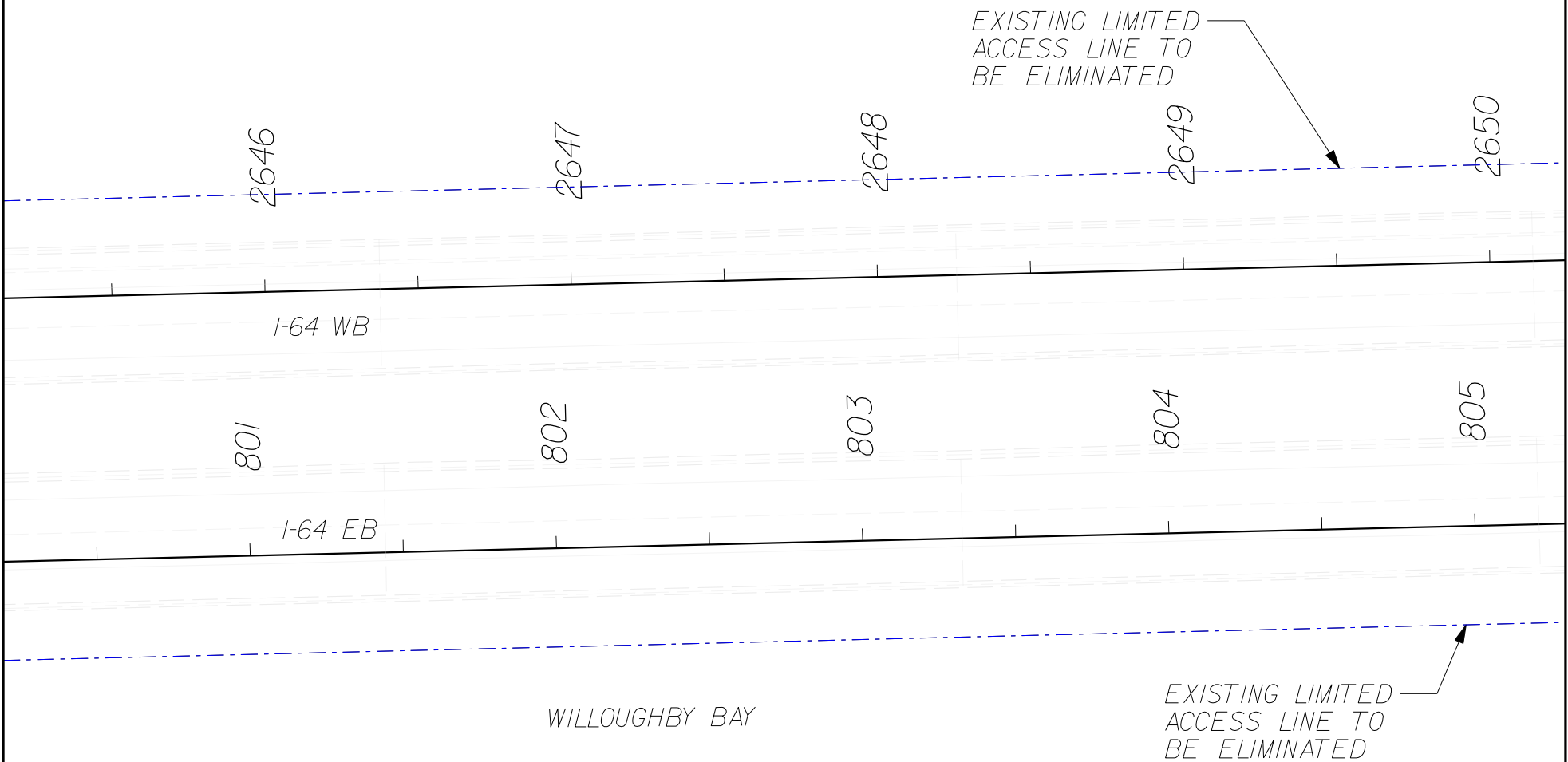
Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 13 of 19

- LEGEND
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 14 of 19

- LEGEND
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION



Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

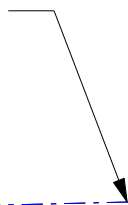
SHT 15 of 19

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED



2656 2657 2658 2659 2660

I-64 WB

811

812

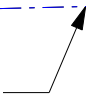
813

814

815

I-64 EB

EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED



WILLOUGHBY BAY



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 16 of 19

LEGEND

- EXISTING RIGHT-OF-WAY
- EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE
- PROPOSED LIMITED ACCESS LINE
- - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED

2661

2662

2663

2664

2665

I-64 WB

816

817

818

819

820

I-64 EB

EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED

WILLOUGHBY BAY

EXISTING LIMITED  
ACCESS LINE TO  
BE ELIMINATED

EXISTING R/W &  
LIMITED ACCESS LINE



RIGHT OF WAY  
EXHIBITS  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

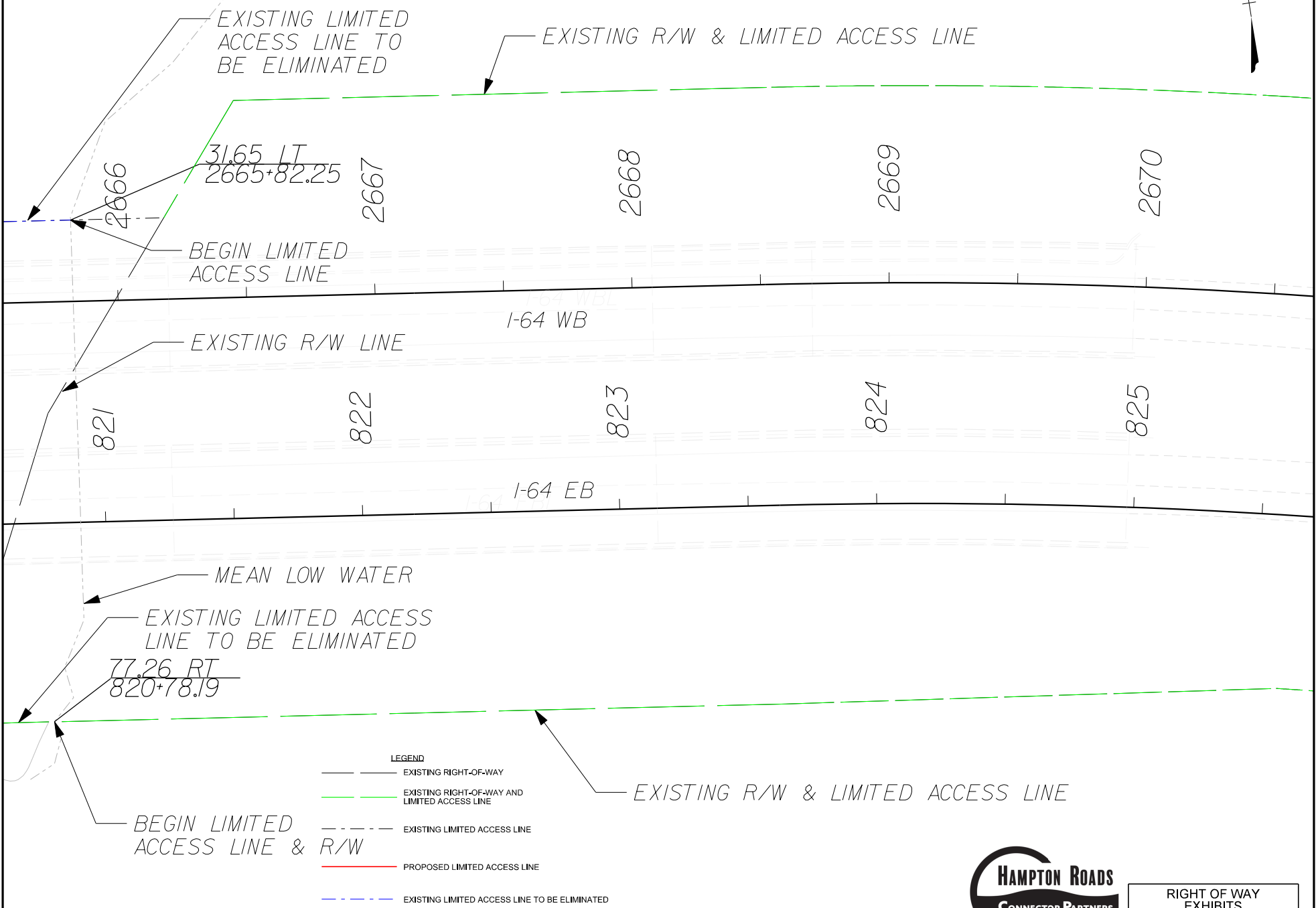
# Hampton Roads Bridge Tunnel

## PROPOSED LIMITED ACCESS CONTROL CHANGES

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SCALE: 1" = 50'

SHT 17 of 19



NOTE: LIMITED ACCESS LINE BEGINS AT MEAN LOW WATER

- LEGEND**
- EXISTING RIGHT-OF-WAY
  - - - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED



**RIGHT OF WAY EXHIBITS**  
THESE PLANS NOT TO BE USED FOR CONSTRUCTION

**Hampton Roads Bridge Tunnel  
PROPOSED LIMITED ACCESS  
CONTROL CHANGES**

SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
UPC 115008

SHT 18 of 19

- LEGEND**
- EXISTING RIGHT-OF-WAY
  - EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE
  - PROPOSED LIMITED ACCESS LINE
  - - - EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

I-564

I-64 REVERSIBLE LANES

1006

LITTLE CREEK RD

1007

1008

1009

1010

I-64 EB

117.56 RT  
1008+53.85

EXISTING LIMITED ACCESS LINE

EXISTING R/W LINE AND  
LIMITED ACCESS LINE

PROPOSED  
LIMITED ACCESS  
LINE

WACO ST

EXISTING R/W LINE



**RIGHT OF WAY  
EXHIBITS**  
THESE PLANS NOT TO BE USED  
FOR CONSTRUCTION

**Hampton Roads Bridge Tunnel**  
**PROPOSED LIMITED ACCESS**  
**CONTROL CHANGES**






SCALE: 1" = 50'

VDOT PROJECT: 0064-M06-032, C501  
 UPC 115008

SHT 19 of 19

1-564

**LEGEND**

-  EXISTING RIGHT-OF-WAY
-  EXISTING RIGHT-OF-WAY AND LIMITED ACCESS LINE
-  EXISTING LIMITED ACCESS LINE
-  PROPOSED LIMITED ACCESS LINE
-  EXISTING LIMITED ACCESS LINE TO BE ELIMINATED

I-64 REVERSIBLE LANES

1011

1012

1013

1014

1015

I-64 EB

I-64 EB ON-RAMP

96.22 RT  
 1013+25.08

PROPOSED  
 LIMITED ACCESS  
 LINE

WACO ST

EXISTING  
 LIMITED ACCESS  
 LINE

EXISTING R/W LINE AND  
 LIMITED ACCESS LINE

EXISTING R/W LINE



**RIGHT OF WAY**  
**EXHIBITS**  
 THESE PLANS NOT TO BE USED  
 FOR CONSTRUCTION

# Hampton Roads Bridge Tunnel Project Location Map



I-64 Hampton Roads Bridge-Tunnel Expansion  
 Project 0064-M06-032, P101, R201, C501, B601, B602, B603, B604, B605, B606, B607, B608,  
 B609, B610, B611, B612, B613, B614, B615, B616, B617, B618, B619, B620, B621, B622, B623,  
 B624, B625, B626, B627, B628, B629, B630, B631, B632, B633, B634  
 UPC# 115008

HRBT - Limited Access Points Table I-64

VDOT PROJECT: 0064-M06-032, C501

UPC 115008

<u>Sheet Reference</u>	<u>Line ID</u>	<u>Baseline Reference</u>	<u>Station</u>	<u>Offset</u>	<u>LT / RT</u>
1	Prop Limited Access Line	Mainline (WBL)	2529+80.27	77.92'	LT
	Prop Limited Access Line	Mainline (WBL)	2529+81.98	266.47'	LT
	Prop Limited Access Line	Mainline (WBL)	2529+82.45	107.93'	LT
	Prop Limited Access Line	Mainline (WBL)	2530+98.72	83.97'	LT
2	Prop Limited Access Line	Mainline (EBL)	743+47.80	103.37'	RT
	Prop Limited Access Line	Mainline (EBL)	745+15.11	102.30'	RT
	Prop Limited Access Line	Mainline (EBL)	746+70.51	102.32'	RT
	Prop Limited Access Line	Mainline (EBL)	746+74.34	77.88'	RT
	Prop Limited Access Line	Mainline (EBL)	748+19.36	77.88'	RT
	Prop Limited Access Line	Mainline (EBL)	743+69.91	181.04'	LT
	Prop Limited Access Line	Mainline (EBL)	745+24.84	179.00'	LT
3	Prop Limited Access Line	Mainline (EBL)	749+76.23	103.05'	RT
4	Prop Limited Access Line	Mainline (EBL)	754+42.37	85.62'	RT
5	Prop Limited Access Line	Mainline (EBL)	758+40.96	61.14'	RT
	Prop Limited Access Line	Mainline (EBL)	760+58.09	64.01'	RT
	Prop Limited Access Line	Mainline (EBL)	761+93.72	70.50'	RT
6	Prop Limited Access Line	Mainline (EBL)	764+18.12	90.76'	RT
7	Prop Limited Access Line	Mainline (EBL)	769+97.41	135.23'	RT
	Prop Limited Access Line	Mainline (EBL)	771+77.26	83.71'	RT
8	Prop Limited Access and R/W Line	Mainline (EBL)	774+78.70	96.83'	RT
	Prop Limited Access and R/W Line	Mainline (WBL)	2623+21.65	92.07'	LT
17	Prop Limited Access and R/W Line	Mainline (EBL)	820+78.19	77.26'	RT
	Prop Limited Access and R/W Line	Mainline (WBL)	2665+82.25	31.65'	LT
18	Prop Limited Access Line	Mainline (EBL)	1008+53.85	117.56'	RT
19	Prop Limited Access Line	Mainline (EBL)	1013+25.08	96.22'	RT



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

*Item #4*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

#### **Title: Highway Naming: “Staff Sergeant Michael Alan Collins Memorial Highway”**

**WHEREAS**, Buchanan County wishes to honor and memorialize the life and service of Michael Alan Collins to his country, who enlisted in the United States Army in 2003, served as a tank crewman and later a tank commander during his two deployments to Iraq, obtained the rank of Staff Sergeant, and earned the Iraqi Freedom and Iraqi Endurance awards; and

**WHEREAS**, Staff Sergeant Collins spent the last 8 years of his 17 years of service in the United States Army with the Defense Attache System serving in Washington, D.C., Brussels, Belgium and Beijing, China before passing away on January 6, 2020 after a courageous battle with cancer; and

**WHEREAS**, Staff Sergeant Collins received many awards and decorations during his 17 year career. A partial listing of which includes: two Joint Service Commendation Medals, four Army Commendation Medals, a Joint Service Achievement Medal, an Army Achievement Medal, a Joint Meritorious Unit Emblem, five Good Conduct Medals, a National Defense Service Medal and many others; and

**WHEREAS**, in accordance with § 33.2-213 of the *Code of Virginia*, Buchanan County has requested, by resolution dated April 6, 2020, that the Commonwealth Transportation Board (CTB), to honor and memorialize the life, service and contributions of Michael Alan Collins, name Route 620, Deskins Road, from the intersection of Route 83, Lovers Gap Road, to the road name change to Indian Gap Road in Buchanan County as the “Staff Sergeant Michael Alan Collins Memorial Highway”; and



**WHEREAS**, § 33.2-213 provides that the Virginia Department of Transportation (VDOT) shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the CTB and requires that the costs of producing, placing, and maintaining such signs shall be paid by the localities in which they are located or by the private entity whose name is attached to the transportation facility so named; and

**WHEREAS**, the Buchanan County Board of Supervisors passed its resolution requesting this naming on April 6, 2020 indicating that Buchanan County agrees to pay VDOT for the costs of producing, placing, and maintaining the signs calling attention to this naming.

**NOW THEREFORE BE IT RESOLVED**, pursuant to § 33.2-213 of the *Code of Virginia*, the CTB hereby names Route 620, Deskins Road, from the intersection of Route 83, Lovers Gap Road, to the road name change to Indian Gap Road in Buchanan County as the "Staff Sergeant Michael Alan Collins Memorial Highway"; and

**BE IT FURTHER RESOLVED**, that VDOT is directed to produce, place, and maintain the signs calling attention to this naming, and secure payment from Buchanan County for these costs as required by law.

#####

## CTB Decision Brief

Highway Naming: “Staff Sergeant Michael Alan Collins Memorial Highway”

**Issue:** Approval of the Commonwealth Transportation Board (CTB) is sought for the commemorative naming of Route 620, Deskins Road, from the intersection of Route 83, Lovers Gap Road, to the road name change to Indian Gap Road in Buchanan County as the “Staff Sergeant Michael Alan Collins Memorial Highway”, as requested by Buchanan County.

**Facts:** The Buchanan County Board of Supervisors enacted a resolution on April 6, 2020 memorializing the life and service of Mr. Collins. Based on that resolution, Mr. Collins was born in Grundy, Virginia in Buchanan County. In 2003 he enlisted in the United State Army and served two deployments to Iraq earning Iraqi Freedom and Iraqi Endurance awards. He served as a tank crewman and later a tank commander during his deployments. Staff Sergeant Collins spent the last 8 of his 17 years of service in the United States Army with the Defense Attache System serving in Washington, D.C., Brussels, Belgium and Beijing, China.

Staff Sergeant Collins received the following awards and decorations during his 17 year career in the United States Army:

Two Joint Service Commendation Medals

Four Army Commendation Medals

Joint Service Achievement Medal

Army Achievement Medal

Joint Meritorious Unit Emblem

Meritorious Unit Emblem

Five Good Conduct Medals

National Defense Service Medal

Iraq Campaign Medal

Global War on Terrorism Expeditionary and Service Medal

Two Global War on Terrorism Expeditionary Service Medals

Two Noncommissioned Officer Professional Development Ribbons

Army Service Ribbon

Two Overseas Service Ribbons

Meritorious Service Medal

White House Communications Agency Certificate of Appreciation for his service in Belgium  
Certificate honoring his memory signed by President Donald J. Trump

Staff Sergeant Michael Alan Collins died on January 6, 2020 after a courageous battle with cancer.

**Recommendations:** The Virginia Department of Transportation (VDOT) recommends this request be approved.

**Action Required by CTB:** The *Code of Virginia*, § 33.2-213, requires a majority of the CTB members to approve a resolution naming a highway or bridge, as appropriate. A resolution will be provided for the CTB’s consideration.

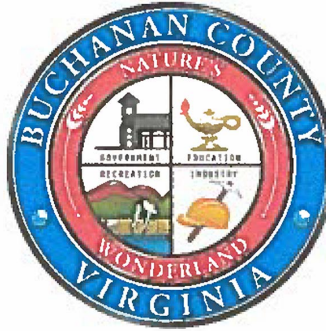
**Result if Approved:** Route 620, Deskins Road, from the intersection of Route 83, Lovers Gap Road, to the road name change to Indian Gap Road in Buchanan County will be known as the “Staff Sergeant Michael Alan Collins Memorial Highway”, as requested by Buchanan County. In accordance with § 33.2-213 of the *Code of Virginia*, Buchanan County agrees, by resolution dated April 6, 2020, to pay the costs of producing, placing, and maintaining the signs calling attention to this naming.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** VDOT is not aware of any opposition to this proposal.

# BUCHANAN COUNTY BOARD OF SUPERVISORS

Craig Stiltner, Chairman  
Rocklick District  
G. Roger Rife, Vice-Chairman  
South Grundy District  
Tim Hess  
Hurricane District  
Jeff Cooper  
Garden District  
James Carroll Branham  
North Grundy District  
Drew Keene  
Prater District  
Trey Adkins  
Knox District



Robert Craig Horn  
County Administrator

Lawrence L. Moise, III Esq.  
County Attorney

April 7, 2020

Jeff Buchanan  
Virginia Department of Transportation  
P. O. Box 127  
Lebanon, VA 24266

**RE: Resolution**

Dear Jeff:

A regular meeting of the Buchanan County Board of Supervisors was held on Monday the 6<sup>th</sup> day of April 2020. Upon motion by Drew Keene seconded by G. Roger Rife and with a roll call vote of seven (7) yeas and zero (0) nays, this board did hereby adopt the enclosed Resolution naming Route 620 "Deskins Road" as the Staff Sergeant Michael Alan Collins Memorial Highway.

If you have any questions, please don't hesitate to contact me. Thank you.

Sincerely,

Robert Craig Horn, County Administrator

Enclosure

## Resolution

**RE: Highway Naming on Route 620 “Deskins Road”, from the intersection of Route 83 with Deskins Road to the intersection of said Deskins Road with Indian Gap Road in “Buchanan County” as the “Staff Sergeant Michael Alan Collins Memorial Highway**

**WHEREAS**, Staff Sergeant *Michael Alan Collins* was born in Grundy, Buchanan County, Va. on September 3, 1981; and

**WHEREAS**, Staff Sergeant. *Collins* enlisted in the U.S. Army in 2003 and was deployed to Iraq twice, earning *Iraqi Freedom* and *Iraqi Endurance* awards. He obtained the rank of Staff Sergeant. He served as a tank crewman and later a tank commander during his deployments overseas. Staff Sergeant *Collins* spent the last 8 years of his 17 years of service in the U.S. Army with the Defense Attache’ System (DAS) serving in Washington, D.C., Brussels, Belgium, and Beijing, China.

**WHEREAS**, Staff Sergeant *Collins* received the following awards and decorations during his 17 year career in the U.S. Army: Two Joint Service Commendation Medals; Four Army Commendation Medals; One Joint Service Achievement Medal; One Army Achievement Medal; One Joint Meritorious Unit Emblem; One Meritorious Unit Emblem; Five Good Conduct Medals; One National Defense Service Medal; One Iraq Campaign Medal; One Global War on Terrorism Expeditionary and Service Medal(GWTEM); Two Global War on Terrorism Expeditionary Service Medal(GWTSM); Two Noncommissioned Officer Professional Development Ribbons; One Army Service Ribbon; Two Overseas Service Ribbons; One Meritorious Service Medal; One White House Communications Agency Certificate of Appreciation for his service in Brussels, Belgium; and a Certificate honoring the memory of Michael Alan Collins signed by President Donald J. Trump; and

**WHEREAS**, Staff Sergeant *Collins* died on January 6, 2020 after a courage battle against cancer; and

**WHEREAS**, Section 33.2-213 of the *Code of Virginia* authorizes the Commonwealth Transportation Board (CTB) to give suitable names to state highways, bridges, interchanges, and other transportation facilities and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways; and

**WHEREAS**, Section 33.2-213 provides that the Virginia Department of Transportation shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the CTB and requires that the costs of producing, placing, and maintaining such signs shall be paid by the localities in which they are located.

**NOW, THEREFORE, BE IT RESOLVED**, that Buchanan County Board of Supervisors, in accordance with the requirements of Section 33.2-213 of the *Code of Virginia*, does hereby request that the Commonwealth Transportation Board name Route 620, Deskins Road from the intersection of said road with Route 83 to the intersection of Deskins Road with Indian Gap Road, in Buchanan County, Va. as the “Staff Sergeant Michael Alan Collins Memorial Highway”;

**BE IT FURTHER RESOLVED**, that Buchanan County agrees to pay the costs of producing, placing, and maintaining the signs calling attention to this naming.

This resolution was adopted this the 6<sup>th</sup> day of April 2020 by the Buchanan County, Va., Board of Supervisors.

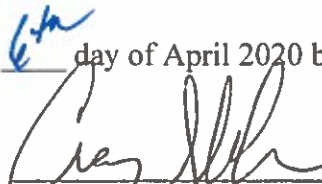
Recorded Vote:

Moved by: Drew Keene

Seconded by: G. Roger Rife

Yeas: 7

Nays: 0

  
\_\_\_\_\_  
Craig Stiltner, Chairman of the  
Buchanan County, Va. Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Robert Craig Horn, County Administrator



Notes

Location Reference:  
 From Rte 83, Lovers Gap Rd (MM 16.09)  
 To Route 662, Robinson Fork Rd (MM 9.85)  
 Length: 6.24 Miles

**BUCHANAN COUNTY (013)  
 ROUTE 620 ROAD NAMING**

**"STAFF SGT. MICHAEL ALAN COLLINS MEMORIAL HWY"**



**BRISTOL DISTRICT  
 LEBANON RESIDENCY**

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT-P, NRCAn, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, VDOT, ITD, CO Richmond, VA, GIS SIG, Annex, 8th floor



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

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Fax: (804) 786-2940

*Agenda item # 5*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

#### **Title: Addition of Projects to the Six-Year Improvement Program for Fiscal Years 2020-2025**

**WHEREAS**, Section 33.2-214(B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1<sup>st</sup> of each year a Six-Year Improvement Program (Program) of anticipated projects and programs and that the Program shall be based on the most recent official revenue forecasts and a debt management policy; and

**WHEREAS**, after due consideration the Board adopted a Final Fiscal Years 2020-2025 Program on June 19, 2019; and

**WHEREAS**, the Board is required by §§ 33.2-214(B) and 33.2-221(C) of the *Code of Virginia* to administer and allocate funds in the Commonwealth Transportation Fund and the Transportation Trust Fund, respectively; and

**WHEREAS**, § 33.2-214(B) of the *Code of Virginia* provides that the Board is to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and is to allocate funds for these needs pursuant to §§ 33.2-358 and Chapter 15 of Title 33.2 (33.2-1500 et seq.) of the *Code of Virginia*, by adopting a Program; and

**WHEREAS**, §§ 33.2-1526 and 33.2-1526.1 authorize allocations to local governing bodies, transportation district commissions, or public service corporations for, among other



things, capital project costs for public transportation and ridesharing equipment, facilities, and associated costs; and

**WHEREAS**, the projects shown in Appendix A were not included in the FY 2020-2025 Program adopted by the Board on June 19, 2019; and

**WHEREAS**, Item 430 O.1 of Chapter 1289 of the 2020 Acts of Assembly provides that notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 Pandemic; and

**WHEREAS**, the Board recognizes that the projects are appropriate for the efficient movement of people and freight and, therefore, for the common good of the Commonwealth.

**NOW THEREFORE, BE IT RESOLVED**, by the Commonwealth Transportation Board, that the projects shown in Appendix A are added to the Six-Year Improvement Program of projects and programs for Fiscal Years 2020 through 2025 and are approved.

####

**Appendix A  
Amendments to the FY2020-2025 SYIP**

UPC	District	Jurisdiction	Route	Project Description	Total Cost	Total Allocation	Balance	Major Fund Source	Fully Funded
-24488	Bristol	Tazewell County	67	INSTALL GUARDRAIL UPGRADES - RTE 67 TAZEWEEL CO	\$ 130,148	\$ 130,148	\$0	High Risk Rural Road	Yes
-24486	Bristol	Russell County	82	ROUTE 82 - ADD LEFT TURN LANE AND INSTALL GUARDRAIL	\$ 148,004	\$ 148,004	\$0	High Risk Rural Road	Yes
-24483	Bristol	Tazewell County	16	SAFETY IMPROVEMENTS - ROUTE 16 - TAZEWEEL CO.	\$ 113,128	\$ 113,128	\$0	High Risk Rural Road	Yes
-24482	Bristol	Russell County	615	SAFTEY IMPROVEMENTS - RTE 615 RUSSELL CO	\$ 144,460	\$ 144,460	\$0	High Risk Rural Road	Yes
T24466	Bristol	Buchanan County	460	CFX - Poplar Creek Phase B - VDOT Oversight	\$ 15,000,000	\$ 15,000,000	\$0	Rte. 58 CDP	Yes
T24467	Bristol	Buchanan County	460	CFX - Poplar Creek Phase B - PE/RW	\$ 12,578,263	\$ 12,578,263	\$0	Rte. 58 CDP	Yes
117650	Fredericksburg	Districtwide	9999	HRRR - Trench Widening	\$ 988,000	\$ 988,000	\$0	High Risk Rural Road	Yes
117661	Fredericksburg	Districtwide	9999	HRRR - Signs and Pavement Markings	\$ 574,000	\$ 574,000	\$0	High Risk Rural Road	Yes
-24515	Hampton Roads	City of Hampton	64	Hampton Roads Express Lanes, Segment 4C - Advance Activities	\$ 15,421,200	\$ 15,421,200	\$0	HRTAC	Yes
-24514	Hampton Roads	City of Norfolk	64	Hampton Roads Express Lanes, Segment 1 - Advance Activities	\$ 5,621,500	\$ 5,621,500	\$0	HRTAC	Yes
-24513	Hampton Roads	City of Newport News	64	Hampton Roads Express Lanes, Segment 4A-4B - Advance Activities	\$ 5,916,425	\$ 5,916,425	\$0	HRTAC	Yes
116812	Hampton Roads	James City County	31	Jamestown Scotland Ferry Composite Piles On-Call Contract	\$ 2,000,000	\$ 2,000,000	\$0	Ferry Boat Program	Yes
117623	Northern Virginia	City of Alexandria	U000	Purchase and Implement DASH Scheduling Software Upgrades	\$ 477,568	\$ 477,568	\$0	CMAQ	Yes
					<b>\$ 59,112,696</b>	<b>\$ 59,112,696</b>	<b>\$ -</b>		

## CTB Decision Brief

### Addition of Projects to the Six-Year Improvement Program for Fiscal Years 2020 - 2025

**Issue:** Each year the Commonwealth Transportation Board (CTB) must adopt a Six-Year Improvement Program (Program) and allocations in accordance with the statutory formula.

**Facts:** The CTB must adopt a Program of anticipated projects and programs by July 1<sup>st</sup> of each year in accordance with § 33.2-214(B) of the *Code of Virginia*. On June 19, 2019, after due consideration, the CTB adopted a Final FY 2020-2025 Program. Item 430 O.1 of Chapter 1289 of the 2020 Acts of Assembly provides that notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 Pandemic. The projects shown in Appendix A were not in the Final FY 2020-2025 Program adopted by the CTB.

**Recommendations:** The Virginia Department of Transportation (VDOT) recommends the addition of the projects in Appendix A to the Program for FY 2020–2025.

**Action Required by CTB:** The CTB will be presented with a resolution for a formal vote to add the projects listed in Appendix A to the Program for FY 2020–2025 to meet the CTB’s statutory requirements.

**Result, if Approved:** If the resolution is approved, the projects listed in Appendix A will be added to the Program for FY 2020-2025.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** None



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

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Richmond, Virginia 23219

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*Agenda item # 6*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

#### **Title: FY20-25 Six-Year Improvement Program Transfers for May 23, 2020 through June 19, 2020**

**WHEREAS**, Section 33.2-214(B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1<sup>st</sup> of each year a Six-Year Improvement Program (Program) of anticipated projects and programs. On June 19, 2019, a resolution was approved to allocate funds for the Fiscal Years 2020 through 2025 Program; and

**WHEREAS**, Item 430 O.1 of Chapter 1289 of the 2020 Acts of Assembly provides that notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 Pandemic; and

**WHEREAS**, the Board authorized the Commissioner, or his designee, to make transfers of allocations programmed to projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2020 through 2025 to release funds no longer needed for the delivery of the projects and to provide additional allocations to support the delivery of eligible projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2020 through 2025 consistent with Commonwealth Transportation Board priorities for programming funds, federal/state eligibility requirements, and according to the following thresholds based on the recipient project; and

Resolution of the Board

FY20-25 Six-Year Improvement Program Transfers for May 23, 2020 through June 19, 2020

July 14, 2020

Page 2 of 2

<b>Total Cost Estimate</b>	<b>Threshold</b>
<\$5 million	up to a 20% increase in total allocations
\$5 million to \$10 million	up to a \$1 million increase in total allocations
>\$10 million	up to a 10% increase in total allocations up to a maximum of \$5 million increase in total allocations

**WHEREAS**, the Board directed that (a) the Commissioner shall notify the Board on a monthly basis should such transfers or allocations be made; and (b) the Commissioner shall bring requests for transfers of allocations exceeding the established thresholds to the Board on a monthly basis for its approval prior to taking any action to record or award such action; and

**WHEREAS**, the Board is being presented a list of the transfers exceeding the established thresholds attached to this resolution and agrees that the transfers are appropriate.

**NOW THEREFORE, BE IT RESOLVED**, by the Commonwealth Transportation Board, that the attached list of transfer requests exceeding the established thresholds is approved and the specified funds shall be transferred to the recipient project(s) as set forth in the attached list to meet the Board's statutory requirements and policy goals.

####

## CTB Decision Brief

### FY2020-2025 Six-Year Improvement Program Transfers for May 23, 2020 through June 19, 2020

**Issue:** Each year the Commonwealth Transportation Board (CTB) must adopt a Six-Year Improvement Program (Program) in accordance with statutes and federal regulations. Throughout the year, it may become necessary to transfer funds between projects to have allocations available to continue and/or initiate projects and programs adopted in the Program.

**Facts:** On June 19, 2019, the CTB granted authority to the Commissioner of Highways (Commissioner), or his designee, to make transfers of allocations programmed to projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2020 through 2025 to release funds no longer needed for the delivery of the projects and to provide additional allocations to support the delivery of eligible projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2020 through 2025 consistent with Commonwealth Transportation Board priorities for programming funds, federal/state eligibility requirements, and according to the following thresholds based on the recipient project:

<b>Total Cost Estimate</b>	<b>Threshold</b>
<\$5 million	up to a 20% increase in total allocations
\$5 million to \$10 million	up to a \$1 million increase in total allocations
>\$10 million	up to a 10% increase in total allocations up to a maximum of \$5 million increase in total allocations

In addition, the CTB resolved that the Commissioner should bring requests for transfers of allocations exceeding the established thresholds to the CTB on a monthly basis for its approval prior to taking any action to record or award such action.

Item 430 O.1 of Chapter 1289 of the 2020 Acts of Assembly provides that notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 Pandemic.

The CTB will be presented with a resolution for formal vote to approve the transfer of funds exceeding the established thresholds. The list of transfers from May 23, 2020 through June 19, 2020 is attached.

**Recommendations:** VDOT recommends the approval of the transfers exceeding the established thresholds from donor projects to projects that meet the CTB's statutory requirements and policy goals.

**Action Required by CTB:** The CTB will be presented with a resolution for a formal vote to adopt changes to the Program for Fiscal Years 2020– 2025 that include transfers of allocated funds exceeding the established thresholds from donor projects to projects that meet the CTB's statutory requirements and policy goals.

Decision Brief

FY20-25 Six-Year Improvement Program Transfers for May 23, 2020 through June 19, 2020

July 14, 2020

Page 2 of 2

**Result, if Approved:** If approved, the funds will be transferred from the donor projects to projects that meet the CTB's statutory requirements and policy goals.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** None

**Six-Year Improvement Program Allocation Transfer Threshold Report**

New	Row	Donor District	Donor Description	Donor UPC	Recipient District	Recipient Description	Recipient UPC	Fund Source	Transfer Amount	Total Allocation	Total Estimate	Transfer Percent	Comments
	A	Bristol	BRISTOL - ENHANCEMENT - BALANCE ENTRY	T4975	Bristol	MAIN STREET STREETScape - DUNGANNON	109249	Local Funds for Enhancement Projects (NPL206), TAP<5K (CF6700)	81,340	257,590	257,590	31.6%	Transfer of surplus funds recommended by District and Local Assistance Division from the District Enhancement Balance Entry line item to fund an underway project.
	B	Bristol	I-81 Median Guardrail - Smyth Co.	109920	Bristol	Piedmont Avenue Pedestrian Heads	109509	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	81,108	158,108	158,108	51.3%	Transfer of surplus funds recommended by District and Traffic Engineering Division from an underway project to fund a scheduled project.
	C	Bristol	I-81 Median Guardrail - Smyth Co.	109920	Bristol	Lee Highway Shared Use Path - Phase 1	110875	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	90,457	289,057	289,057	31.3%	Transfer of surplus funds recommended by District and Traffic Engineering Division from an underway project to fund a scheduled project.
	D	Bristol	Roadway Departure Chevron Initiative, Route 83 Rumble Strip Initiative	107121, 107124	Bristol	Route 83 Shoulder Initiative - Dickenson Co.	112292	High Risk Rural - Federal (CF3630), High Risk Rural - Soft Match (CF3641), Open Container Funds - Statewide (CNF221), Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	3,616,306	8,710,335	8,710,335	41.5%	Transfer of surplus funds recommended by District and Traffic Engineering Division from an underway and cancelled project to fund a scheduled project.
	E	Bristol	I-81 Median Guardrail - Smyth Co., Rte. 80 Russell Co. Rumble Strip Initiative, US 58 Rumble Strips - Lee County	109920, 114059, 106513	Bristol	EDGE LINE RUMBLE STRIPS - BRISTOL DISTRICT WIDE	116648	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	1,320,340	1,548,089	1,548,089	85.3%	Transfer of surplus funds recommended by District and Traffic Engineering Division from underway, scheduled and completed projects to a scheduled project.
	F	Fredericksburg	#SGR Fredericksburg-Local SGR Bridge-Balance Entry	T9573	Fredericksburg	#SGR Local RTE 3 (BUS) RAPP RIVER, BRIDGE REPLAC, ID18073	110822	SGR - State (SS0100)	1,898,012	3,559,334	3,559,334	53.3%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the SGR Local Project Bridge Balance Entry line item to fund an underway project.
	G	Fredericksburg	#SGR Fredericksburg-VDOT SGR Bridge-Balance Entry	T13913	Fredericksburg	#SGR ROUTE 1470 CULVERT REPLACE, ID 23928	113807	SGR Bridge State (SSB700)	741,842	1,282,842	1,741,000	57.8%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the District SGR VDOT Bridge Balance Entry line item to fund a scheduled project
	H	Statewide	STATEWIDE SYIP UPDATE BALANCE ENTRY	T1179	Lynchburg	RTE 29 SBL & NBL - BR & APPR OVER NSRR FED ID 20579 & 20580	104599	CTB Formula - Bridge State (CS0110)	2,017,451	18,000,747	15,983,296	11.2%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the Statewide SYIP Balance Entry line item to fund an underway project.



**Six-Year Improvement Program Allocation Transfer Threshold Report**

New	Row	Donor District	Donor Description	Donor UPC	Recipient District	Recipient Description	Recipient UPC	Fund Source	Transfer Amount	Total Allocation	Total Estimate	Transfer Percent	Comments
NEW	I	Northern Virginia	Purchase DASH Buses - Alexandria	103935	Northern Virginia	PURCHASE AND IMPLEMENT DASH SCHEDULING SOFTWARE UPGRADES	117623	CMAQ : Northern Virginia (CF5M10), CMAQ Match : Northern Virginia (CS5M11), CMAQ PM 2.5 Set-Aside (CF5200), CMAQ Set-Aside Match (CS5201), CMAQ TERMS (CF5100), CMAQ TERMS Match (CS5101)	477,568	477,568	477,568	100.0%	Transfer of surplus funds recommended by District and MPO from a cancelled project to a scheduled project
	J	Salem	Route 8 Safety Improvements	109584	Salem	FY 21 Curve Delineation	117211	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	311,137	853,978	853,978	36.4%	Transfer of surplus funds recommended by District and Traffic Engineering Division from a completed project to a scheduled project.
	K	Statewide	STATEWIDE HPP DEALLOCATION BALANCE ENTRY	T21770	Staunton	#SMART18 - (St) I-81 EXIT 300 SOUTHBOUND ACCEL LANE EXT.	111054	HPP: Nat. Freight Pgm - Federal (HF1150), HPP: Nat. Freight Pgm - Soft Match (HF1151)	5,097,874	8,535,296	3,437,422	59.7%	Transfer of surplus funds from the Statewide HPP Deallocation Balance Entry line item to fund a scheduled project.

**Six-Year Improvement Program Allocation Transfer Threshold Report**

NEW	Row	Donor District	Donor Description	Donor UPC	Recipient District	Recipient Description	Recipient UPC	Fund Source	Transfer Amount	Total Allocation	Total Estimate	Transfer Percent	Comments
	1	Bristol	Corridor Q - 460 Connector Phase II Finish Grade	100708	Bristol	CFX - Poplar Creek Phase A - VDOT Oversight and RW Acq. Cost	104094	STP <5k (CF2700), STP<5k Soft Match (CF2701)	205,000	20,614,081	20,614,081	1.0%	Transfer of surplus funds recommended by District from a scheduled project to an underway project.
	2	Statewide	STATEWIDE HIGHWAY SAFETY BALANCE ENTRY	70700	Bristol	Pedestrian Intersection Safety Initiative	109507	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	8,990	192,786	183,796	4.7%	Transfer of surplus funds recommended by District and Traffic Engineering Division from the Statewide Safety Balance Entry line item to fund an underway project.
	3	Fredericksburg	DISTRICTWIDE - TRENCH WIDENING (TOP 100 SEGMENTS)	117572	Fredericksburg	BIKE AND PEDESTRIAN UPGRADES ON LEELAND ROAD	109477	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	300,222	3,975,978	3,975,978	7.6%	Transfer of surplus funds recommended by District and Traffic Engineering Division from a scheduled project to an underway project.
	4	Statewide	STATEWIDE SYIP UPDATE BALANCE ENTRY	T1179	Fredericksburg	#SGR BRIDGE REHABILITATION BEAM ENDS ID 08548, 10645, 14782	110109	CTB Formula - Bridge State (CS0110)	305,587	2,459,849	2,459,849	12.4%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the Statewide SYIP Balance Entry line item to fund a completed project.
	5	Fredericksburg	#SGR Fredericksburg-VDOT SGR Bridge-Balance Entry	T13913	Fredericksburg	#SGR LEGACY REPLACE RTE 743 SOUTH RIVER EX STR ID 04505	111392	SGR Bridge State (SSB700)	87,275	1,947,735	1,947,735	4.5%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the District SGR Bridge Balance Entry line item to fund a scheduled project.
	6	Hampton Roads	HAMPTON DGP DEALLOCATION BALANCE ENTRY	T21763	Hampton Roads	#SMART18 - Route 13 & Route 175 Chincoteague Road	111709	DGP - State (GS0100)	7,024	786,180	800,909	0.9%	Transfer of surplus funds recommended by District from the District DGP Deallocation Balance Entry line item to fund a scheduled project.
	7	Hampton Roads	HAMPTON DGP DEALLOCATION BALANCE ENTRY	T21763	Hampton Roads	#SMART18 - Route 13 Industrial Park Traffic Light	111710	DGP - State (GS0100), DGP STP STWD (GF2100), DGP STP STWD Soft Match (GF2101)	155,441	1,159,117	1,003,676	13.4%	Transfer of surplus funds recommended by District from the District DGP Deallocation Balance Entry line item to fund a scheduled project.
	8	Hampton Roads	#SGR Hampton Roads-VDOT SGR Bridge-Balance Entry	T13919	Hampton Roads	#SGR-Rte.707 over Pitts Creek (FED ID 24320) Replacement	113032	SGR Bridge State (SSB700)	645,999	3,395,999	3,456,299	19.0%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the District SGR Bridge Balance Entry line item to fund a scheduled project.
	9	Northern Virginia	NORTHERN VIRGINIA (NOVA) CMAQ BALANCE ENTRY	70716	Northern Virginia	HERNDON METRORAIL INTERMODAL ACCESS IMPROVEMENTS PH II	106986	CMAQ Federal - Urban : Northern Virginia MPO (CNF214), CMAQ Match - Urban : Northern Virginia MPO (CNS214)	347	551,554	1,908,000	0.1%	Transfer of surplus funds recommended by District and MPO from the District CMAQ Balance Entry line item to a scheduled project.
	10	Richmond	INSTALL PEDESTRIAN ACCOMMODATIONS - DISTRICTWIDE	106240	Richmond	REPLACE SIGNALS - VARIOUS INTERSECTIONS	104664	Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	64,000	4,558,637	4,558,637	1.4%	Transfer of surplus funds recommended by District and Traffic Engineering Division from a completed project to fund a completed project.

**Six-Year Improvement Program Allocation Transfer Threshold Report**

NEW	Row	Donor District	Donor Description	Donor UPC	Recipient District	Recipient Description	Recipient UPC	Fund Source	Transfer Amount	Total Allocation	Total Estimate	Transfer Percent	Comments
	11	Richmond	#SGR Richmond - VDOT SGR Bridge - Balance Entry	T13914	Richmond	#SGR - REHAB BRIDGE, HANOVER COUNTY, STR 9412 CN ONLY	111289	SGR Bridge Federal NHPP (SFB110), SGR Bridge Soft Match NHPP (SFB111), SGR Bridge State (SSB700)	135,576	2,135,576	2,000,000	6.3%	Transfer of surplus funds recommended by District and Structure and Bridge Division from the District SGR Bridge Balance Entry line item to fund a scheduled project.
	12	Salem	Route 8 Safety Improvements	109584	Salem	Route 11 & 117 Roanoke Co. - Pedestrian Safety Improvements	107055	HSIP - Highways (CNF052), HSIP - State Match (CNS251), Safety (statewide) (CF3100), Safety Soft Match (statewide) (CF3101)	138,377	1,358,377	1,358,377	10.2%	Transfer of surplus funds recommended by District and Traffic Engineering Division from a completed project to a scheduled project.
	13	Salem	SALEM DGP DEALLOCATION BALANCE ENTRY	T21767	Salem	#HB2.FY17 Rte 419 Safety Improvements at Tanglewood	107061	DGP STP STWD (GF2100), DGP STP STWD Soft Match (GF2101)	296,730	7,047,878	6,568,683	4.2%	Transfer of surplus funds recommended by District from the DGP Deallocation Balance Entry line item to fund an underway project.



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

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*Agenda item # 7*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

#### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

#### **Title: Allocation of Funds to VRE for Track Lease Costs**

**WHEREAS**, on June 19, 2019, the Commonwealth Transportation Board (“the Board”) approved the Fiscal Years 2020 through 2025 Six-Year Improvement Program; and

**WHEREAS**, the Department of Rail and Public Transportation is responsible for the sub-allocation and management of Flexible STP funds in compliance with FHWA and FTA requirements; and

**WHEREAS**, the Department of Rail and Public Transportation provides funding each year for track access payments to Virginia Railway Express (VRE); and

**WHEREAS**, it is the desire of the Board to ensure the maximum use of all available federal funds; and

**WHEREAS**, the Department of Rail and Public Transportation recommends that the Board approve the addition of \$15,031,200 in Flexible STP funds to the FY20-25 Six Year Improvement Program to fund VRE’s track lease access payments to Amtrak, Norfolk Southern, and CSX for FY21.

**NOW THEREFORE BE IT RESOLVED**, the Board authorizes the Department of Rail and Public Transportation to disburse \$15,031,200 of federal funds for VRE’s FY21 track lease access payments to Amtrak, Norfolk Southern, and CSX.

#####

## CTB Decision Brief

### Allocation of Funds to VRE for Track Lease Costs

**Issue:** Each year the Commonwealth Transportation Board (CTB) must adopt a Six-Year Improvement Program (Program or SYIP) and allocations for anticipated projects and programs based on the most recent official revenue forecasts and debt management policy, and other funds available as set forth in the Final Fiscal Years 2020-2025 Six-Year Improvement Program in accordance with policy or statutory formula. In addition, each year additional federal funds and obligation authority are anticipated to be made or to become available after adoption of the SYIP and authority to utilize these funds is sought. DRPT provides funding each year to Virginia Railway Express (VRE) for track lease payments to Amtrak, Norfolk Southern and CSX using Flexible Surface Transportation Program (Flexible STP) funds.

**Facts:** DRPT has available carryover Flexible STP funds from FY20. The CTB has not yet adopted a Six-Year Improvement Program of anticipated projects and programs by July 1<sup>st</sup> in accordance with Section 33.2-214 (B) for Fiscal Year 2021.

**Recommendations:** DRPT recommends that the CTB approve the addition of Flexible STP funding in the amount of \$15,031,200 to the FY20-25 Six Year Improvement Program for track lease access payments from VRE to Amtrak (\$5,503,200), Norfolk Southern (\$2,753,600), and CSX (\$6,774,400) for FY21.

**Action Required by CTB:** Approve the amendment of the FY20-25 Six Year Improvement Program and allocation of Flexible STP funding.

**Options:** Approve, Deny, or Defer.



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

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Chairperson

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*Agenda item # 8*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 14, 2020

#### MOTION

Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_

Action: \_\_\_\_\_

Title: Economic Development Access to  
Xpress Natural Gas, LLC (deallocation)  
Project ECON-006-646, N501, Appomattox County

**WHEREAS**, § 33.2-1509 of the *Code of Virginia* provides a fund to “be expended by the Board for constructing, reconstructing, maintaining or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed[;]” and

**WHEREAS**, on March 16, 2016, the Commonwealth Transportation Board allocated \$303,000 from the Economic Development, Airport and Rail Access Fund to provide access to the planned development of Xpress Natural Gas, LLC in Appomattox County, Project ECON-006-646, N501, subject to certain contingencies; and

**WHEREAS**, Appomattox County has provided notice of cancellation of this project, by letter dated April 28, 2020, and acknowledgement that the allocation may be returned to the statewide account for the Economic Development Access Program; and

**WHEREAS**, it is deemed that administration of the Economic Development Access Program can best be served by the return of the approved allocation to the Economic Development, Airport and Rail Access Fund.

Resolution of the Board

Economic Development Access Program – Xpress Natural Gas, LLC. – Appomattox County

July 14, 2020

Page Two

**NOW, THEREFORE, BE IT RESOLVED**, that the action of the Commonwealth Transportation Board on March 16, 2016, allocating Economic Development, Airport and Rail Access funds for the access Project ECON-006-646, N501, is hereby rescinded and the \$303,000 project allocation shall be returned to the Economic Development, Airport, and Rail Access Fund.

#####

## CTB Decision Brief

### Economic Development Access – Appomattox County Xpress Natural Gas, LLC. – De-allocation of Funds

**Issue:** Economic Development Access Program funds previously allocated to provide access to the planned Xpress Natural Gas, LLC. (XNG) development in Appomattox County is no longer needed because the company's plans did not proceed as anticipated and the County has been unable to attract other qualifying business. The County has stated to the Virginia Department of Transportation (VDOT) by letter dated April 28, 2020, that XNG will not be locating on property within the Appomattox Center for Business and Commerce (formerly Appomattox Industrial Park) and acknowledges that the previously approved access road project may be cancelled and the funding allocation removed.

**Facts:** Section 33.2-1509 of the *Code of Virginia*, 24 VAC 30-271-20, and the Economic Development Access Fund Policy of the Commonwealth Transportation Board (CTB) provide for the CTB to expend funds set aside for constructing access roads to economic development sites on which certain establishments that meet the basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed.

The Appomattox County Board of Supervisors requested funding from the Economic Development Access Program to assist in providing road access to the planned XNG facility on property within the Appomattox Center for Business and Commerce. The access road project was neither constructed nor initiated, and there have been no charges against the project's Economic Development Access Program allocation.

**Recommendations:** VDOT staff recommends that Project ECON-006-646, N501 be cancelled and the \$303,000 allocation for this project be returned to the Economic Development, Airport and Rail Access Fund in order that the funds may be made available for new projects.

**Action Required by the CTB:** Section 33.2-1509 of the *Code of Virginia*, 24 VAC 30-271-20, and the CTB's Economic Development Access Policy specify that the CTB shall approve the allocation of funds for the construction of access road projects. Having established the access road project to assist in the development of the XNG facility and operation and allocated funding by resolution, it is now recommended that the CTB rescind its original action for this project. The March 16, 2016 resolution is also attached for reference.

**Result, if Approved:** The \$303,000 total allocated to this project will be returned to the Economic Development, Airport and Rail Access Fund and made available for allocation to new projects.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reactions:** None





# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Aubrey L. Layne, Jr.  
Chairman

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*Agenda item # 3*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

March 16, 2016

#### MOTION

**Made By: Ms. Valentine, Seconded By: Mr. Dyke  
Action: Motion Carried, Unanimously**

**Title: Economic Development Access to  
Xpress Natural Gas, LLC.  
Project ECON-006-646, N501, Appomattox County**

**WHEREAS**, Section 33.2-1509 of the *Code of Virginia* provides a fund to "...be expended by the Board for constructing, reconstructing, maintaining or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed ..."; and

**WHEREAS**, the Appomattox County Board of Supervisors has, by appropriate resolution, requested Economic Development Access Program funds to provide adequate access to serve the Xpress Natural Gas, LLC facility that will be built under firm contract and be located off of Westridge Lane (Route 751), within the Appomattox County Industrial Park, and said access is estimated to cost \$303,000; and

**WHEREAS**, Xpress Natural Gas, LLC has been determined by the Virginia Economic Development Partnership to be a qualifying establishment meeting the basic employer criteria under the provisions of Section 33.2-1509 of the *Code of Virginia*; and

**WHEREAS**, the proposed Xpress Natural Gas, LLC facility is expected to result in at least \$7.8 million in capital investment and employment of 50 persons and VDOT Lynchburg District staff has confirmed the proposed access road will accommodate this development; and

**WHEREAS**, it appears that this request falls within the intent of Section 33.2-1509 of the *Code of Virginia* and complies with the provisions of the Commonwealth Transportation Board's (CTB) policy on Economic Development Access.

**NOW, THEREFORE, BE IT RESOLVED**, that \$303,000 of the Economic Development, Airport and Rail Access Fund be allocated to provide adequate access to Xpress Natural Gas, LLC in the County of Appomattox, Project ECON-006-646, N501 contingent upon:

1. All right of way, environmental assessments and remediation, and utility adjustments being provided at no cost to the Commonwealth; and
2. Execution of an appropriate contractual agreement between the County of Appomattox (LOCALITY) and the Virginia Department of Transportation (VDOT), to provide for the:
  - a. design, administration, construction and maintenance of this project; and
  - b. payment of all ineligible costs, and of any eligible costs in excess of this and any other approved allocation for this economic development project, from sources other than those administered by VDOT; and
  - c. provision by the LOCALITY of either i) documentation of at least \$1,515,000 of eligible capital outlay by Xpress Natural Gas, LLC on the site served by this project, or, should documentation of capital outlay by Xpress Natural Gas, LLC be insufficient, ii) an appropriate bond, or other acceptable surety device, by the LOCALITY to VDOT, not to expire before June 16, 2021, without written permission of VDOT. Such surety device shall provide for reimbursement to VDOT of any expenses incurred by the Economic Development, Airport and Rail Access Fund for this project's construction not justified by the eligible capital outlay of establishments served by the project. If, by March 16, 2021, at least \$1,515,000 of eligible capital outlay on parcels served exclusively by this project has not been expended or committed by firm contract by Xpress Natural Gas, LLC or another qualified establishment, then an amount equal to 20% of the eligible capital outlay of up to \$1,515,000 will be credited toward the allocation utilized in the project's construction and the balance of the utilized allocation not justified by eligible capital outlay will be returned to VDOT and the Economic Development, Airport and Rail Access Fund. This surety may be released or reduced accordingly at an earlier date upon provision of documentation of eligible capital outlay by a qualified establishment, or establishments; and
3. Determination by VDOT of eligible capital outlay in accordance with current policy and procedures for administering the Economic Development Access Program.

####



**APPOMATTOX COUNTY**  
**OFFICE OF COUNTY ADMINISTRATION**

P.O. Box 863, Appomattox, VA 24522 Phone: (434) 352-2637  
www.AppomattoxCountyVA.gov

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April 28, 2020

Mr. Gregg Allen, E.I.T.  
Locally Administered Project Engineer  
Virginia Department of Transportation  
Lynchburg District  
4219 Campbell Avenue  
Lynchburg, VA 24501

**RE: West Ridge Lane Extension**  
**Economic Development Access Program Funding**

Dear Mr. Allen,

This letter is in response to your recent inquiry regarding the status of the West Ridge Lane extension project in the Appomattox Center for Business and Commerce. The County, along with its Economic Development Authority (EDA), was successful in obtaining road funds through the Virginia Department of Transportation's Economic Development Access Program back in 2016 as part of the expansion of XNG, a natural gas company from Massachusetts. In 2017, Delta Response Team (DRT), a private ambulatory service, located its corporate headquarters and dispatch operation on West Ridge Lane. DRT was responsible for extending the road a short distance in order to accommodate their new entrance. The EDA is currently working with Blue Ridge Rock Festival, LLC. (BRRF) to provide a festival venue that would accommodate up to 25,000 patrons, with the possibility of even larger events. However, neither business is considered a "qualifying business", as defined by the Access Program.

Unfortunately, XNG will not be locating in the Appomattox Center for Business and Commerce. Several factors played into their decision not to locate in Appomattox, among them being the construction of the Atlantic Coast Pipeline and the Mountain Valley Pipeline through Virginia, which greatly hampered the company's ability to establish a client base.

That being said, the project will not move forward without having the security of another prospective business to locate in the park. The EDA met on April 27, 2020 to review the VDOT recommendation to cancel the project due to the challenges associated with securing a qualifying business and the time that has elapsed. The EDA concurred with this recommendation to cancel the project.

The County and the EDA understand that VDOT desires to closeout this project and return the allocation to the statewide account. Additionally, it is understood that there is no penalty for returning the funds and the County can reapply at a later date should the need arise.

As always, the County appreciates VDOT's willingness to partner with Virginia localities, as we work cooperatively towards our economic development goals.

Best Regards,



Susan M. Adams  
County Administrator



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

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Richmond, Virginia 23219

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*Agenda Item 9*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

**Made By: \_\_\_\_\_,      Seconded By: \_\_\_\_\_**

**Action:**

### **AUTHORIZING THE ISSUANCE AND SALE OF COMMONWEALTH OF VIRGINIA FEDERAL TRANSPORTATION GRANT ANTICIPATION REVENUE NOTES, SERIES 2020 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$130,000,000**

**WHEREAS**, from time to time the Commonwealth of Virginia (the “Commonwealth”) receives federal-aid highway construction reimbursements and other federal highway assistance under or in accordance with Title 23 of the United States Code, or any successor program established under federal law, from the Federal Highway Administration (“FHWA”) or any successor or additional federal agencies (“Federal Highway Reimbursements”);

**WHEREAS**, the receipt of Federal Highway Reimbursements is expected to continue;

**WHEREAS**, pursuant to the Transportation Development and Revenue Bond Act (the “State Revenue Bond Act”), Sections 33.2-1700 *et seq.* of the Code of Virginia of 1950, as amended (the “Virginia Code”), the Commonwealth Transportation Board (the “Board”) has the power to issue revenue bonds or notes to finance the costs of transportation projects authorized by the General Assembly of Virginia (the “General Assembly”), including any financing costs or other financing expenses related to such bonds or notes;

**WHEREAS**, the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, Article 4, Chapter 15, Title 33.2 of the Virginia Code (the “GARVEEs Act” and, together with the State Revenue Bond Act, the “Act”), authorizes the Board, by and with the consent of the Governor of the Commonwealth (the “Governor”), to

Resolution of the Board

July 14, 2020

Authorizing the Issuance and Sale of the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020

Page 2 of 7

issue, pursuant to the provisions of the State Revenue Bond Act, in one or more series from time to time, revenue obligations of the Commonwealth to be designated “Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series ....” (the “GARVEEs”); provided that the aggregate principal amount outstanding shall not exceed \$1,200,000,000, exclusive of (i) the amount of any revenue obligations that may be issued to refund GARVEEs previously issued under the GARVEEs Act in accordance with Section 33.2-1512 of the Virginia Code, and (ii) any amounts issued for financing expenses (including, without limitation, any original issue discount);

**WHEREAS**, Section 33.2-1520 of the Virginia Code provides that in connection with each series of GARVEEs issued, the Board shall establish a fund in accordance with Section 33.2-1720 of the Virginia Code either in the state treasury or with a trustee in accordance with Section 33.2-1716 of the Virginia Code, which fund secures and is used for the payment of such series of GARVEEs to the credit of which there shall be deposited such amounts, appropriated therefor by the General Assembly, as are required to pay the principal, or purchase price of, and redemption premium, if any, and interest on GARVEEs, as and when due and payable, and the amounts deposited in such fund shall be derived (i) first from Federal Highway Reimbursements received by the Commonwealth from time to time only with respect to the specifically identified project or projects to be financed by such GARVEEs (the “Project-Specific Reimbursements”); (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if any, which are designated by the General Assembly for such purpose;

**WHEREAS**, the Board has entered into a Master Trust Indenture (as supplemented and amended, the “Master Indenture”) dated as of February 1, 2012, between the Board and U.S. Bank National Association, as trustee (the “Trustee”);

**WHEREAS**, the Board has the authority to issue one or more series of GARVEEs to be known as the “Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes,” with one or more series designations, as appropriate (collectively, the “2020 GARVEEs”) and to take such action as may be necessary or advisable in order to effect the issuance and sale of the 2020 GARVEEs;

**WHEREAS**, Section 33.2-1513 of the Virginia Code provides that the net proceeds of the GARVEEs shall be used exclusively for the purpose of providing funds, together with any other available funds, for paying the costs incurred or to be incurred for construction or funding of such projects to be designated by the Board, and the Board intends that the net proceeds of the 2020 GARVEEs are to be used to pay costs of the projects listed on Schedule 1 to this Resolution (collectively, the “Projects”); and

**WHEREAS**, the provisions for the foregoing arrangements and transactions will be set forth in the following documents, forms of which have been presented to the Board at this meeting:

(1) a Seventh Supplemental Trust Indenture expected to be dated as of September 1, 2020 (the “Seventh Supplemental Indenture” and together with the Master Indenture, the “Indenture”), between the Board and the Trustee;

(2) a Preliminary Official Statement of the Board related to the offering for sale of the 2020 GARVEEs containing, among other things, information relating to the Commonwealth, the Board, the Virginia Department of Transportation (the “Department”) and the terms of the 2020 GARVEEs to be used in the public offering for sale of the 2020 GARVEEs (the “Preliminary Official Statement”); and

(3) a Continuing Disclosure Agreement of the Board relating to the obligations of the Board to disclose certain information on an ongoing basis in connection with the 2020 GARVEEs (the “Continuing Disclosure Agreement” and, together with the Seventh Supplemental Indenture and the Preliminary Official Statement, the “Basic Documents”).

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMONWEALTH TRANSPORTATION BOARD THAT:**

**1. Authorization of the 2020 GARVEEs.** The Board hereby finds and determines that it is in the best interest of the Commonwealth and the Board for the Board (i) to enter into the Seventh Supplemental Indenture to provide for the issuance of the 2020 GARVEEs, (ii) to issue the 2020 GARVEEs in accordance with the provisions of the Act, the Indenture and the Basic Documents, (iii) to sell the 2020 GARVEEs in the manner provided herein, and (iv) to use a portion of the proceeds of the 2020 GARVEEs to pay costs of the Projects, including such other project or projects as may be designated in a resolution adopted by the Board and approved in writing by FHWA. The issuance and sale of the 2020 GARVEEs within the following parameters is authorized: (i) the aggregate principal amount of the 2020 GARVEEs, including any original issue premium in excess of a de minimis amount as required by Section 2.2-5002.1 of the Virginia Code, shall not exceed \$130,000,000, (ii) the final maturity date of the 2020 GARVEEs shall not exceed 20 years from their date of issuance, and (iii) the aggregate true interest cost of the GARVEEs shall not exceed the maximum true interest cost approved by the Treasury Board of the Commonwealth (the “Treasury Board”). The Treasury Board is required pursuant to Section 2.2-2416 of the Virginia Code to approve the terms and structure of the 2020 GARVEEs. The Board hereby finds and determines that the issuance and sale of the 2020 GARVEEs in accordance with this Resolution conforms with the purposes set forth in the Act and the Indenture.

**2. Limited Obligations.** The 2020 GARVEEs shall be limited obligations of the Board and the Commonwealth, payable from and secured by a pledge of the Federal Highway Reimbursements and the other Revenues (as defined in the Indenture) and amounts in certain funds established pursuant to the Indenture. Nothing in this Resolution, the 2020 GARVEEs, the Indenture or the Basic Documents shall be deemed to create or constitute a debt or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

**3. Determination of Details of the 2020 GARVEEs.** The Chairperson of the Board (the “Chairperson”) is authorized, subject to the parameters set forth in paragraph 1 of this Resolution, to determine the final terms and details of the 2020 GARVEEs, including, without limitation, the aggregate principal amount, the maturity schedule, the interest rates, the redemption provisions, the sale date, the sale price and the reoffering prices. The Chief Financial Officer of the Department and the Director, Financial Planning Division of the Department (either of whom may act) are authorized to effect the Chairperson’s award of the 2020 GARVEEs. Upon the Chairperson’s determination of the final terms and details of the 2020 GARVEEs, the Chairperson and the Secretary of the Board (the “Secretary”) are authorized (i) to have the 2020 GARVEEs prepared and executed in accordance with the Indenture, (ii) to deliver the 2020 GARVEEs to the Trustee for authentication, and (iii) to cause the 2020 GARVEEs so executed and authenticated to be delivered by the Trustee to the purchaser of purchasers thereof upon payment of the purchase price of the 2020 GARVEEs. Execution and delivery by the Chairperson and the Secretary of the 2020 GARVEEs shall constitute conclusive evidence of the approval of the 2020 GARVEEs and the terms and details thereof by the Chairperson and the Secretary on behalf of the Board.

**4. Sale of the 2020 GARVEEs.** The Chairperson is authorized to sell the 2020 Bonds pursuant to a competitive sale and to prepare, publish and distribute a Notice of Sale in connection therewith (the “Notice of Sale”), provided that the Notice of Sale may not be published or distributed prior to the approval of the 2020 GARVEEs by resolution of the Treasury Board. Alternatively, if in consultation with Public Resources Advisory Group, the Board’s financial advisor (the “Financial Advisor”), the Chairperson determines a negotiated sale of the 2020 GARVEEs is in the best interest of the Commonwealth, the Chairperson is authorized to solicit and consider proposals for such sale and to negotiate the terms thereof not inconsistent with the terms of this Resolution with an underwriter or group of underwriters (the “Underwriter”); provided, however, no purchase contract or agreement may be executed prior to the approval of the terms and details of the 2020 GARVEEs by resolution of the Treasury Board. In addition to the Chairperson, any such purchase contract or agreement may be executed and delivered by either of the Chief Financial Officer of the Department or the Director, Financial Planning Division of the Department.

**5. Preliminary Official Statement.** The Preliminary Official Statement in substantially the form presented at this meeting is approved. The Chairperson is authorized, in collaboration with Department staff, Bond Counsel and the Financial Advisor, to prepare the final form of the Preliminary Official Statement with such completions, omissions, insertions, and changes as are necessary or desirable to effect the issuance and sale of the 2020 GARVEEs, as the Chairperson may approve. The Chairperson is authorized to deem the Preliminary Official Statement final for purposes of Securities and Exchange Commission Rule 15c2-12 (the “Rule”) and to approve the distribution thereof, provided that the Preliminary Official Statement may not be distributed prior to approval of the terms and structure of the 2020 GARVEEs in accordance with a resolution adopted by the Treasury Board.

**6. Official Statement.** The Chairperson is authorized, in collaboration with Department staff, Bond Counsel and the Financial Advisor, to complete the Preliminary Official Statement as an official statement in final form (the “Official Statement”) to reflect the provisions of the winning bid or an executed purchase contract, as appropriate, with respect to the purchase and sale of the 2020 GARVEEs. The Chairperson is authorized to execute the Official Statement, which execution shall constitute conclusive evidence of the approval of the Official Statement by the Chairperson on behalf of the Board and that it has been deemed final within the meaning of the Rule. The Department staff is authorized and directed to arrange for delivery of a sufficient number of copies of the Official Statement to the winning bidder or Underwriter, as appropriate, for distribution to each potential investor requesting a copy and to each initial purchaser of the 2020 GARVEEs from the winning bidder or Underwriter, as appropriate, and to the Municipal Securities Rulemaking Board (“MSRB”) via the MSRB’s Electronic Municipal Market Access system. The distribution by the winning bidder or Underwriter of the Official Statement as executed by the Chairperson is authorized.

**7. Continuing Disclosure.** The Board covenants to undertake ongoing disclosure and to provide “annual financial information” and “event notices” for the benefit of holders of the 2020 GARVEEs and to assist the winning bidder or Underwriter, as applicable, in complying with the Rule, all in accordance with the Continuing Disclosure Agreement. The Chairperson is authorized and directed to prepare, execute and deliver the final form of the Continuing Disclosure Agreement, with such completions, omissions, insertions and changes as are necessary or desirable to effect the issuance and sale of the 2020 GARVEEs, as the Chairperson may approve. The Chief Financial Officer of the Department and the Director, Financial Planning Division of the Department (either of whom may act) are designated as the initial Dissemination Agent under the Continuing Disclosure Agreement. Execution and delivery by the Chairperson of the Continuing Disclosure Agreement shall constitute conclusive evidence of the approval of the Continuing Disclosure Agreement by the Chairperson on behalf of the Board.

**8. Seventh Supplemental Indenture.** The Seventh Supplemental Indenture is approved in substantially the form presented at this meeting. The Chairperson is authorized and directed to prepare, execute and deliver the final form of the Seventh Supplemental Indenture with such completions, omissions, insertions and changes as are necessary or desirable to effect the issuance and sale of the 2020 GARVEEs, including without limitation changes to the dated date thereof, as the Chairperson may approve. Execution and delivery by the Chairperson of the Seventh Supplemental Indenture shall constitute conclusive evidence of the approval of the Seventh Supplemental Indenture by the Board.

**9. Authorization of Further Action.** The Department staff is authorized (i) to request the Treasury Board to approve the terms and structure of the 2020 GARVEEs in accordance with Section 2.2-2416(7) of the Virginia Code and the Act, (ii) to request the Governor to approve the issuance of the 2020 GARVEEs in accordance with the Act, (iii) if determined by Department staff to be cost beneficial, to procure and negotiate a contract with a credit facility provider to issue a credit facility with respect to some or all of the 2020 GARVEEs and to execute such contract, together with any other documents related to such credit facility, and



(iv) to collaborate with the staff of the Department of the Treasury of the Commonwealth or the State Treasurer to procure and to negotiate investments and investment contracts for any of the proceeds of the 2020 GARVEEs. The Chairperson is authorized to execute and deliver all documents and certificates and to take all such further action as she may consider necessary or desirable in connection with the issuance and sale of the 2020 GARVEEs, including, without limitation, the execution and delivery of documents, certificates or instruments that include without limitation (a) agreements or amendments to existing agreements concerning Federal Highway Reimbursements or the GARVEEs generally to account for the 2020 GARVEEs or the proceeds of the 2020 GARVEEs or other GARVEEs in a manner consistent with the intent of this Resolution, and (b) certificates or agreements concerning tax items related to the 2020 GARVEEs, such as: (I) the expected use and investment of the proceeds of the 2020 GARVEEs to show that such expected use and investment will not cause the 2020 GARVEEs to be deemed to be “private activity bonds” or “arbitrage bonds” under Section 141 or Section 148 of the Internal Revenue Code of 1986, as amended (the “Tax Code”), and (II) providing for the computation and payment to the United States of any arbitrage rebate liability under Section 148(f) of the Tax Code. The Chairperson is further authorized to make on behalf of the Board such elections under the Tax Code and the applicable Treasury Regulations with respect to the 2020 GARVEEs as the Chairperson may deem to be in the best interests of the Commonwealth and the Board, in consultation with Bond Counsel and the Financial Advisor.

**10. Authorizations and Directions to Certain Officers.** Any authorization of or direction to the Chairperson or the Secretary under this Resolution shall also be deemed to be an authorization of or a direction to (i) the Vice-Chairperson of the Board or any Assistant Secretary of the Board, respectively, and (ii) any other officer or employee of the Board or the Department designated for such purpose by the Chairperson or the Secretary, respectively, including without limitation the Commonwealth’s Commissioner of Highways or the Chief Financial Officer of the Department.

**11. Effective Date.** This Resolution is effective upon adoption, and shall remain in effect for one year after adoption.

Resolution of the Board

July 14, 2020

Authorizing the Issuance and Sale of the Commonwealth of Virginia Federal Transportation  
Grant Anticipation Revenue Notes, Series 2020

Page 7 of 7

## **SCHEDULE 1**

### **List of Projects**

1. Route 95- Relocation of Interchange at Route 630
2. Route 7 Corridor Improvements Phase II
3. Route 277 Widening
4. I-66 Inside the Beltway Initiatives
5. Interchange Construction Route 15/17/29 at Route 15/17/29 Business
6. I-81 Northbound Auxiliary Lane from Exit 141 to 143
7. Route 7 Corridor Improvements – Phase I and Phase II
8. I-81 at State Route 75 (Exit 17) Interchange Modification
9. Route 10 (Bermuda Triangle Road to Meadowville Road)
10. Route 682 Reconstruction
11. I-95 Rappahannock River Crossing (Southbound)

(each as described in the Board's Six-Year Improvement Plan, as amended from time to time)

If any of the foregoing identified projects or the related financing plan is delayed, altered, or terminated, such other project or projects as may be designated by resolution of the Board and approved in writing by FHWA shall be added to this Schedule I and will become eligible for Project-Specific Reimbursements.

**SEVENTH SUPPLEMENTAL TRUST INDENTURE**

between

**COMMONWEALTH TRANSPORTATION BOARD**

and

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

authorizing

**\$ \_\_\_\_\_  
Commonwealth of Virginia  
Federal Transportation Grant Anticipation Revenue Notes  
Series 2020**

Dated as of September 1, 2020

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**THIS SEVENTH SUPPLEMENTAL TRUST INDENTURE** (this “Seventh Supplemental Indenture”) is dated as of September 1, 2020, and is entered into by the **COMMONWEALTH TRANSPORTATION BOARD** (the “Board”) and **U.S. BANK NATIONAL ASSOCIATION** (the “Trustee”), a national banking association, having power and authority to accept and execute trusts, as trustee, paying agent and registrar.

## **RECITALS**

**WHEREAS**, the Board and the Trustee have entered into a Master Trust Indenture dated as of February 1, 2012, as previously and hereby supplemented and amended (the “Master Indenture”), under which the Board has provided for (i) the issuance of Notes secured by and payable from federal highway assistance funds and other revenues pledged therefore to finance certain costs of certain eligible transportation Projects and any other such purposes as may be authorized under the Act, and (ii) the security for and the sources of payment of the debt service on the Notes;

**WHEREAS**, pursuant to the Master Indenture, certain terms of and other matters relating to each Series of Notes are to be specified in a Supplemental Indenture;

**WHEREAS**, this Seventh Supplemental Indenture is a Supplemental Indenture that is being entered into to authorize and to set forth certain terms of and other matters relating to the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020 (the “2020 Notes”);

**WHEREAS**, the Board has full power and authority, pursuant to the Act and the Master Indenture to enter into this Seventh Supplemental Indenture and to issue the 2020 Notes; and

**WHEREAS**, the Board has found and determined the issuance and sale of the 2020 Notes to be in conformity with the purposes set forth in the Act and the Master Indenture and in the best interest of the Commonwealth and the Board.

**NOW, THEREFORE**, for and in consideration of the mutual covenants, and the representations and warranties, set forth herein, the Board and the Trustee agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.1 Definitions.** Unless the context otherwise requires, capitalized terms used in this Seventh Supplemental Indenture have the meanings assigned to them in the Master Indenture, except that if any term is defined in both the Master Indenture and this Article, the definition set forth in this Article controls for purposes of this Seventh Supplemental Indenture and the 2020 Notes. In addition to the foregoing, the following capitalized terms have the following meanings unless the context otherwise requires:

“*2020 Notes*” means the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020, which are authorized by this Seventh Supplemental Indenture.

“2020 Notes COI Account” means the account by that name in the Project Fund established under Section 2.6 below.

“2020 Projects” means collectively the projects described in Appendix B.

“Interest Payment Date” means March 15 and September 15 of each calendar year, commencing March 15, 2021.

“Master Indenture” means the Master Trust Indenture, dated as of February 1, 2012, between the Board and the Trustee, as the same may be modified, altered, amended and supplemented from time to time in accordance with its terms.

“Second Supplemental Indenture” means the Second Supplemental Trust Indenture dated as of July 1, 2012, between the Board and the Trustee, as the same may be modified, altered, amended and supplemented from time to time in accordance with its terms.

“Seventh Supplemental Indenture” means this Seventh Supplemental Indenture and any amendment hereto adopted in accordance with the terms hereof.

“Tax Certificate” means the Non-Arbitrage Certificate and Tax Compliance Agreement executed by an Authorized Board Representative in connection with the issuance of the 2020 Notes.

“VDOT Funding Account” means the account by that name in the Project Fund established under Section 2.6.

## ARTICLE II

### AUTHORIZATION AND TERMS OF NOTES; CREATION OF ACCOUNTS

**Section 2.1 Authorization, Purpose and Name.** The Board hereby authorizes the issuance of the 2020 Notes for the purpose of financing the 2020 Projects in accordance with the Act and the Master Indenture. The 2020 Notes shall be named “Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020.”

**Section 2.2 Principal Amounts, Dated Dates, Maturity Dates and Interest.**

(a) The aggregate principal amount of the 2020 Notes shall be \$\_\_\_\_\_.

(b) The 2020 Notes shall be dated as of their date of delivery and shall bear interest from their dated date, which is September \_\_, 2020. Any 2020 Note issued upon transfer and exchange for another 2020 Note shall be dated as of its date of authentication and shall bear interest from the Interest Payment Date next preceding its date of authentication, unless the date of authentication is an Interest Payment Date in which case such 2020 Note shall bear interest from such Interest Payment Date or unless the date of authentication precedes the first Interest Payment Date in which case such 2020 Note shall bear interest from its dated date.

(c) Interest on the 2020 Notes shall be calculated based on a 360-day year consisting of twelve 30-day months.

(d) The 2020 Notes shall mature on March 15 and September 15 of the years and in the principal amounts, and shall bear interest at the per annum rates, set forth below:

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
March 15, 2021	\$	%
September 15, 2021		
March 15, 2022		
September 15, 2022		
March 15, 2023		
September 15, 2023		
March 15, 2024		
September 15, 2024		
March 15, 2025		
September 15, 2025		
March 15, 2026		
September 15, 2026		
March 15, 2027		
September 15, 2027		
March 15, 2028		
September 15, 2028		
March 15, 2029		
September 15, 2029		
March 15, 2030		
September 15, 2030		
March 15, 2031		
September 15, 2031		
March 15, 2032		
September 15, 2032		
March 15, 2033		
September 15, 2033		
March 15, 2034		
September 15, 2034		
March 15, 2035		
September 15, 2035		

(e) The 2020 Notes shall be numbered consecutively from 1 upward with the prefix “R-” preceding such number.

**Section 2.3 Redemption Provisions.** (a) The 2020 Notes maturing on or before September 15, 2030, are not subject to optional redemption prior to their respective maturity dates. The 2020 Notes maturing on and after March 15, 2031, are subject, at the sole discretion of the Board, to optional redemption prior to their maturity on and after September 15, 2030, in whole or in part at any time, in whole multiples of \$5,000, and if in part from the maturities of 2020 Notes as the Board shall determine and from any of the 2020 Notes with the same maturity date and interest rate in a manner determined by the Trustee (or DTC if then registered in the name of a nominee of DTC), at a redemption price equal to 100% of the principal amount of the 2020 Notes redeemed, plus accrued interest to the date fixed for redemption.

(b) The 2020 Notes are not subject to mandatory redemption.

**Section 2.4 Limited Obligations.** (a) The Note Payments for the 2020 Notes are payable solely from Revenues and moneys held in the Debt Service Fund. The Owners of the

2020 Notes may not look to any other revenues of the Board or the Commonwealth for the payment of the 2020 Notes.

(b) All financial obligations of the Board under the Master Indenture, this Seventh Supplemental Indenture and every other Supplemental Indenture and the 2020 Notes shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth within the meaning of the Constitution of Virginia or the laws of the Commonwealth concerning or limiting the creation of indebtedness by the Commonwealth, and the 2020 Notes shall be payable solely, subject to their appropriation by the General Assembly, from the Revenues and certain funds and accounts pledged therefor in the Master Indenture.

**Section 2.5 Form of 2020 Notes.** The 2020 Notes shall be in substantially the form set forth in Appendix A hereto, with such changes thereto, not inconsistent with the Master Indenture and this Seventh Supplemental Indenture, as may be necessary or desirable and approved by an Authorized Board Representative whose signature appears thereon (and whose manual or facsimile signature thereon shall constitute conclusive evidence of such approval). All statements set forth in the 2020 Notes are hereby approved and adopted as statements of the Board.

**Section 2.6 Application of Proceeds; Establishment of Certain Accounts and Subaccounts; Exclusion from Trust Estate.** (a) There is hereby established in the Project Fund two accounts to be called the “2020 Notes COI Account,” the “VDOT Funding Account.”

(b) On the issuance date of the 2020 Notes, the underwriter for the 2020 Notes will wire to the Trustee \$\_\_\_\_\_, representing the purchase price for the 2020 Notes, less the underwriter’s discount and good faith deposit for the 2020 Notes previously provided by the underwriter to the Board on the date of sale of the 2020 Notes, and the Board will immediately cause \$\_\_\_\_\_, representing such good faith deposit from the underwriter, to be transferred to the Trustee. The Trustee will immediately upon receipt of such amounts deposit (i) \$\_\_\_\_\_ thereof into the 2020 Notes COI Account and (ii) \$\_\_\_\_\_ thereof into the VDOT Funding Account.

(c) The amounts in the 2020 Notes COI Account, together with the investment earnings thereon, shall be applied to pay the costs of issuance of the 2020 Notes, and any balance remaining after payment of costs of issuance shall be transferred to the VDOT Funding Account.

(d) The amounts in the VDOT Funding Account, together with the investment earnings thereon, shall be applied to pay the costs of the 2020 Projects. The Trustee shall disburse sums from the VDOT Funding Account in accordance with the terms of Section 5.3(c) of the Master Indenture.

(e) As permitted by Section 2.1(b) of the Master Indenture, neither the 2020 Notes COI Account nor the VDOT Funding Account nor any money or investments held therein shall be part of the Trust Estate.

**Section 2.7 Flow of Funds.** As provided in Section 5.2(a) of the Master Indenture, the Board shall provide for the transfer to the Trustee on or before the last day of each month, Federal Highway Reimbursements from the Federal Fund for deposit in the Series 2020 Account



of the Debt Service Fund in an amount equal to one-sixth of the Note Payment due on the 2020 Notes on the next ensuing Interest Payment Date.

### **ARTICLE III**

#### **CERTIFICATIONS AND COVENANTS OF THE BOARD**

**Section 3.1 Findings, Determinations and Certifications.** An Authorized Board Representative, by executing this Seventh Supplemental Indenture on behalf of the Board, hereby finds, determines and certifies that:

- (a) The 2020 Notes are authorized by the Act and the Master Indenture.
- (b) As of the date of issuance of the 2020 Notes, the conditions set forth in Section 3.2 of the Master Indenture have been satisfied.
- (c) This Seventh Supplemental Indenture contains all information required to be included in a Supplemental Indenture authorizing a Series of Notes under the Master Indenture.
- (d) This Seventh Supplemental Indenture is authorized by and is being executed and delivered pursuant to and in accordance with Section 9.1(g) of the Master Indenture for the purpose of authorizing the issuance of the 2020 Notes in accordance with Article III of the Master Indenture and the Act and will, as provided in Section 9.3 of the Master Indenture, become effective when (i) it has been executed by an Authorized Board Representative and an authorized representative of the Trustee and (ii) Bond Counsel has delivered a written opinion to the effect that it complies with the provisions of Article IX of the Master Indenture.
- (e) The 2020 Notes will not be issued until Bond Counsel has delivered a written opinion to the effect (which may be subject to customary assumptions and limitations) that (i) the 2020 Notes have been duly authorized, executed and delivered by the Board and are valid and binding limited obligations of the Board, payable solely from the sources provided in the Master Indenture and this Seventh Supplemental Indenture; (ii) the Master Indenture creates a valid pledge of and lien on Revenues and the Trust Estate, subject to the terms thereof; and (iii) the interest on the 2020 Notes is excludable from gross income for federal income tax purposes under Section 103 of the Code.
- (f) Except for actions being taken pursuant to the terms hereof, all conditions to the execution and delivery of this Seventh Supplemental Indenture and the issuance of the 2020 Notes have been satisfied.

**Section 3.2 Representations, Covenants and Warranties.** The Board represents, covenants and warrants, as applicable, that:

- (a) The execution, delivery and performance of this Seventh Supplemental Indenture and the issuance, execution, delivery and performance of the 2020 Notes by the Board is authorized by the Act and, upon the execution and delivery of this Seventh Supplemental Indenture by the Trustee and an Authorized Board Representative, this Seventh Supplemental Indenture and the 2020 Notes will be enforceable against the Board in accordance with their terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in

equity, by the exercise by the Board of its powers under the laws of the Commonwealth and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States.

(b) The execution, delivery and performance of its obligations under this Seventh Supplemental Indenture and the issuance, execution, delivery and performance of its obligations under the 2020 Notes by the Board does not and will not conflict with or result in violation or a breach of any law or the terms, conditions or provisions of any restriction or any agreement or instrument to which the Board is now a party or by which the Board is bound, or constitute a default under any of the foregoing, or, except as specifically provided in the Master Indenture or this Seventh Supplemental Indenture, result in the creation or imposition of any lien or encumbrance whatsoever upon any of the property or assets of the Board.

(c) There is no litigation or proceeding pending or threatened against the Board affecting the right of the Board to execute, deliver or perform its obligations under this Seventh Supplemental Indenture or to issue, execute, deliver or perform its obligations under the 2020 Notes.

#### **ARTICLE IV**

##### **REPRESENTATIONS, COVENANTS AND WARRANTIES OF TRUSTEE**

**Section 4.1 Representations, Covenants and Warranties.** The Trustee represents, covenants and warrants that:

(a) The Trustee (i) is a national banking association with full trust powers that is duly organized, validly existing and in good standing under the laws of the United States of America, (ii) is duly qualified to do business in the Commonwealth and (iii) is authorized, under its articles of association, action of its board of directors and applicable law, to own and manage its properties, to conduct its affairs in the Commonwealth, to execute, deliver and perform its obligations under this Seventh Supplemental Indenture and to authenticate and deliver the 2020 Notes.

(b) The execution, delivery and performance of this Seventh Supplemental Indenture and the authentication and delivery of the 2020 Notes by the Trustee have been duly authorized by the Trustee.

(c) This Seventh Supplemental Indenture is enforceable against the Trustee in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the Board of its powers under laws of the Commonwealth and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States.

(d) The execution, delivery and performance of this Seventh Supplemental Indenture and the authentication and delivery of the 2020 Notes by the Trustee do not and will not conflict with or result in a violation or a breach of any law or the terms, conditions or provisions of any restriction or any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitute a default under any of the foregoing or, except as specifically provided in the Master Indenture or this Seventh Supplemental Indenture, result in the creation

or imposition of any lien or encumbrance whatsoever upon the Trust Estate or any of the property or assets of the Trustee.

(e) There is no litigation or proceeding pending or threatened against the Trustee affecting the right of the Trustee to execute, deliver or perform its obligations under this Seventh Supplemental Indenture or to authenticate or deliver the 2020 Notes.

(f) Except for actions to be taken pursuant to the terms hereof, all conditions to the execution and delivery of this Seventh Supplemental Indenture and the authentication and delivery of the 2020 Notes by the Trustee have been satisfied.

## ARTICLE V MISCELLANEOUS

**Section 5.1 Amendment to the Master Indenture.** Reference is hereby made to the amendment to the Master Indenture contained in Article V of the Second Supplemental Indenture, which provision is incorporated in the Master Indenture and made a part thereof. The amended provision is set forth in Appendix C.

**Section 5.2 Table of Contents, Titles and Headings.** The table of contents, titles and headings of the Articles and Sections of this Seventh Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Seventh Supplemental Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

**Section 5.3 Interpretation and Construction.** This Seventh Supplemental Indenture and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Seventh Supplemental Indenture. For purposes of this Seventh Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Seventh Supplemental Indenture to designated “Articles,” “Sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Seventh Supplemental Indenture;

(b) The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder” and other words of similar import refer to this Seventh Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;

(c) The terms defined in Article I hereof have the meanings assigned to them in that Article and include the plural as well as the singular;

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time;

(e) The term “money” includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder;

(f) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means “to but excluding;” and

(g) Although attached hereto as appendices for the convenience of the reader, the appendices attached hereto are integral parts of this Seventh Supplemental Indenture and are incorporated herein as if set forth in full in the body hereof.

**Section 5.4 Further Assurances and Corrective Instruments.** The Board and the Trustee agree that so long as this Seventh Supplemental Indenture is in full force and effect, the Board and the Trustee shall have full power to carry out the acts and agreements provided herein and they will, from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may be required for correcting any inadequate or incorrect description of the Trust Estate, or for otherwise carrying out the intention of or facilitating the performance of this Seventh Supplemental Indenture.

**Section 5.5 Tax Covenants.** The Board agrees that it will not directly or indirectly use or permit the use of any proceeds of the 2020 Notes or any other funds of the Board or take or omit to take any action that would cause the 2020 Notes to be “arbitrage bonds” under Section 148(a) of the Code. To these ends, the Board will comply with all requirements of Sections 141 through 150 of the Code, including the rebate requirement. Without limiting the generality of the foregoing, the Board agrees that (i) it will not directly or indirectly use or permit the use of the proceeds of the 2020 Notes except in accordance with the Tax Certificate and (ii) insofar as the Tax Certificate imposes duties and obligations on the Board, the Tax Certificate is specifically incorporated by reference into this Section. The Trustee agrees to comply with all written instructions of the Board given in accordance with the Tax Certificate, but the Trustee shall not be required to ascertain that the instructions comply with the Tax Certificate. The Trustee shall be entitled to receive and may request from time to time from the Board written instructions from Bond Counsel or other nationally-recognized bond counsel acceptable to the Trustee regarding the interpretation of Sections 141 through 150 of the Code, and the Trustee agrees that it will comply with such directions (upon which the Trustee and the Board may conclusively rely) so as to enable the Board to perform its covenants under this Section. Notwithstanding any provisions of this Section, if the Board shall provide to the Trustee an opinion of Bond Counsel or other nationally-recognized bond counsel addressed and acceptable to the Board and the Trustee to the effect that any action required under this Section by incorporation or otherwise is not required to maintain the excludability from gross income of the interest on the 2020 Notes under Section 103 of the Code, the Board and the Trustee may rely conclusively on such opinion in complying with the provisions of this Section.

**Section 5.6 Parties Interested Herein.** This Seventh Supplemental Indenture shall be for the sole and exclusive benefit of the Board, the Trustee, the Owners and their respective successors and assigns. Nothing in this Seventh Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the Board, the Trustee and the Owners, any right, remedy or claim under or by reason of this Seventh Supplemental Indenture or any terms hereof.

**Section 5.7 Severability.** In the event that any provision of this Seventh Supplemental Indenture, other than the grant of the Trust Estate to the Trustee, shall be held

invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 5.8 Applicable Law.** The laws of the Commonwealth shall be applied in the interpretation, execution and enforcement of this Seventh Supplemental Indenture.

**Section 5.9 Identifying Information.** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will ask for documentation to verify its formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification, and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

**Section 5.10 Execution in Counterparts.** This Seventh Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the Commonwealth Transportation Board has caused this Seventh Supplemental Indenture to be executed in its name by its Chairperson, and to evidence its acceptance of the trusts hereby created the Trustee has caused this Seventh Supplemental Indenture to be executed in its corporate name by its authorized officer, all as of the date first above written.

**COMMONWEALTH TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Shannon R. Valentine, Chairperson

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

By: \_\_\_\_\_  
Stephanie E. Haysley

**APPENDIX A**

**FORM OF 2020 NOTE**

R-\_\_ \$ \_\_\_\_\_

**UNITED STATES OF AMERICA**

**COMMONWEALTH OF VIRGINIA**

**COMMONWEALTH TRANSPORTATION BOARD**

**COMMONWEALTH OF VIRGINIA FEDERAL TRANSPORTATION GRANT  
ANTICIPATION REVENUE NOTES, SERIES 2020**

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
_____ %	[March][September] 15, 20__	September __, 2020	927790 ____

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS (\$ )**

The Commonwealth Transportation Board (the "Board"), for value received, promises to pay, solely from the revenues and other property pledged to the payment of this Note, to the registered owner of this Note or legal representative, the principal sum stated above on the maturity date stated above, and to pay solely from such source, interest on the principal amount of this Note at the annual rate stated above, payable semi-annually on each March 15 and September 15, commencing on March 15, 2021. This Note shall bear interest (a) from September \_\_, 2020, if this Note is authenticated before March 15, 2021, or (b) otherwise, from the March 15 or September 15 that is, or immediately precedes, the date on which this Note is authenticated (unless the payment of the interest on this Note is in default, in which case this Note shall bear interest from the date to which interest has been paid). The final installment of principal of this Note shall be payable upon presentation and surrender of this Note at a corporate trust office of U.S. Bank National Association, Richmond, Virginia, as trustee under the Indenture, as hereinafter defined, or its successor in trust (the "Trustee"). Principal of, other than the final installment thereof, and interest on this Note shall be paid by check or draft mailed to the person registered on March 1 or September 1, as appropriate, next preceding the interest payment date as the registered owner of this Note at the address of such person on the registration books of the Board maintained by the Trustee, provided, however, that when the 2020 Notes, as hereinafter defined, are held in book-entry form through a securities depository such amounts shall be paid by wire transfer to or as directed by such securities depository. Interest on this Note shall be computed on the basis of a year of 360 days and twelve 30-day months. Principal of and interest on this Note are payable in lawful money of the United States of America. In case the date of maturity of the principal of this Note or the date fixed for the payment of interest on this Note is a date on which banking institutions are authorized or

obligated by law to close at the place where the principal office of the Trustee is located, then payment of the principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the principal office of the Trustee is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or the date fixed for the payment of interest.

This Note and the issue of which it is a part and interest on this Note are limited obligations of the Board and payable solely from the revenues and other property pledged and assigned to the Trustee under the terms of the Indenture to secure payment of this Note. The principal of and interest on this Note shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth of Virginia nor any of its political subdivisions. Neither the Commonwealth of Virginia nor any of its political subdivisions, including the Board, shall be obligated to pay the principal of or interest on this Note or other costs incident to it except from the revenues, money or property pledged for such purpose, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any of its political subdivisions is pledged to the payment of the principal or interest on this Note.

This Note is one of an issue of \$\_\_\_\_\_ Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020 (the “2020 Notes”), of like tenor, except as to number, denomination, interest rate and maturity, authorized and issued by the Board, pursuant to the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, Section 33.2-1511 et seq. of the Code of Virginia of 1950, as amended (the “Virginia Code”), and the Transportation Development and Revenue Bond Act, Sections 33.2-1700 et seq. of the Virginia Code, to pay the costs of certain eligible transportation projects designated by the Board and located in the Commonwealth of Virginia and the costs related to the issuance of the 2020 Notes (the “Project”). The 2020 Notes are issued under a Master Trust Indenture, dated as of February 1, 2012 (the “Master Indenture”), as previously supplemented and amended and as further supplemented by a Seventh Supplemental Trust Indenture, dated as of September 1, 2020 (the “Seventh Supplemental Indenture”), each between the Board and the Trustee. The Master Indenture, together with all of the supplements and amendments thereto (including the Seventh Supplemental Indenture), is referred to collectively in this Note as the “Indenture.” The 2020 Notes, together with all other notes issued or to be issued by the Board under the Indenture (collectively, the “Notes”), are equally and ratably secured by the Indenture. Reference is made to the Indenture for a description of the revenues and property pledged and assigned and the provisions, among other things, with respect to the nature and extent of the security, the rights and obligations of the Board and the Trustee, the terms on which the Notes are issued and secured, the rights of the registered owners of the Notes and the provisions for defeasance of such rights. Additional Notes equally and ratably secured with the 2020 Notes may be issued on the terms provided in the Indenture.

The 2020 Notes maturing on or before September 15, 2030, are not subject to optional redemption prior to their respective maturity dates. The 2020 Notes maturing on and after March 15, 2031, are subject to redemption prior to their maturity at the option of the Board on and after September 15, 2030, in whole or in part at any time, in whole multiples of \$5,000, and if in part from the maturities of the 2020 Notes as the Board shall determine and within any group of 2020 Notes with the same maturity date and interest rate in a manner determined by the Trustee (or The Depository Trust Company (“DTC”) if then registered in the name of a nominee of DTC), at a redemption price equal to 100% of the principal amount of the 2020 Notes redeemed, plus



accrued interest to the date fixed for redemption. The Trustee shall provide all notices of redemption in accordance with the terms of the Indenture.

The registered 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 proceeding with respect to the Indenture, except as provided in the Indenture. Upon the occurrence of certain events or upon certain conditions, in the manner and with the effect set forth in the Indenture, the principal of all of the 2020 Notes issued under the Indenture and then outstanding, together with any accrued interest on them, may become or may be declared due and payable before their stated maturities. Modifications or alterations in the Indenture, or any supplements to it, may be made only to the extent and under the circumstances provided by the Master Indenture.

The 2020 Notes are issued as registered bonds without coupons. The 2020 Notes are issued in denominations of \$5,000 (or any integral multiple of \$5,000). At a corporate trust office of the Trustee, in the manner and subject to the limitations and conditions upon payment of charges provided for in the Indenture, 2020 Notes may be exchanged for an equal aggregate principal amount of 2020 Notes of like date and tenor and of authorized denominations and bearing interest at the same rate.

The transfer of this Note may be registered by the registered owner in person or by his or her duly authorized attorney or legal representative at the corporate trust office of the Trustee, but only in the manner and subject to the limitations and conditions provided for in the Indenture and upon surrender and cancellation of this Note. Upon any such registration of transfer, the Board shall execute and the Trustee shall authenticate and deliver in exchange for this Note a new 2020 Note or 2020 Notes, registered in the name of the transferee, of like date and tenor and of authorized denominations for the aggregate principal amount which the registered owner is entitled to receive. The Trustee shall before due presentment of registration of transfer treat the registered owner as the person exclusively entitled to payment of principal of, premium, if any, and interest on this Note, and the exercise of all other rights and powers of the owner.

All acts and conditions, required to happen, exist or be performed precedent to and in connection with the issuance of this Note have happened, exist and have been performed.

This Note shall not become obligatory for any purpose or 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the Commonwealth Transportation Board has caused this Note to be executed by its Chairperson, its seal to be affixed to this Note and attested by its Secretary.

**COMMONWEALTH TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Shannon R. Valentine, Chairperson

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Alison D. DeTuncq, Secretary

**CERTIFICATE OF AUTHENTICATION**

AUTHENTICATION DATE: September \_\_, 2020

This Note is one of the 2020 Notes described in the within-mentioned Master Indenture, as supplemented by the Seventh Supplemental Trust Indenture dated as of September 1, 2020, between the Commonwealth Transportation Board and U.S. Bank National Association, as Trustee.

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

**ASSIGNMENT**

**FOR VALUE RECEIVED** the undersigned hereby sell(s), assign(s) and transfer(s) unto

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

(Please print or type Name and Address, including postal zip code of Transferee)

the foregoing Note and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney to transfer said Note on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Registered Owner**

**NOTICE:** The signature above must correspond with the name of the Registered Owner as it appears on the front of this Note in every particular, without alteration or enlargement or any change whatsoever.

**Signature guaranteed:**

(**NOTICE:** The signature of the transferor of this Note must be guaranteed by an institution participating in the Securities Transfer Agent Medallion Program ("STAMP") or similar program.)

Please affix signature guarantee ink stamp below with appropriate signature, title of officer and date:

## **APPENDIX B**

### **DESCRIPTION OF 2020 PROJECT**

1. Route 95- Relocation of Interchange at Route 630
2. Route 7 Corridor Improvements Phase II
3. Route 277 Widening
4. I-66 Inside the Beltway Initiatives
5. Interchange Construction Route 15/17/29 at Route 15/17/29 Business
6. I-81 Northbound Auxiliary Lane from Exit 141 to 143
7. Route 7 Corridor Improvements – Phase I and Phase II
8. I-81 at State Route 75 (Exit 17) Interchange Modification
9. Route 10 (Bermuda Triangle Road to Meadowville Road)
10. Route 682 Reconstruction
11. I-95 Rappahannock River Crossing (Southbound)

(each as described in the Board's Six-Year Improvement Plan, as amended from time to time)

If any of the foregoing or the related financing plan is delayed, altered, or terminated, such other project or projects as may be designated by resolution of the Board and approved in writing by FHWA shall be added to this Schedule I and will become eligible for Project-Specific Reimbursements.

## APPENDIX C

### AMENDMENTS TO MASTER INDENTURE

1. Section 1.1 of the Master Indenture was amended by Article V of the Second Supplemental Indenture by removing the existing definition for “Program Costs” and inserting the following therefor:

*“Program Costs” means costs of the following types, including ongoing expenses of the type described in items (b), (c) and (d):*

*(a) financing costs, including, but not limited to, costs and expenses that an Authorized Board Representative deems necessary or advantageous in connection with the sale of the Notes and the administration of the Notes, the Trust Estate, this Master Indenture and any Supplemental Indenture, including, but not limited to, costs and expenses relating to the engagement of consultants, financial advisors, underwriters, bond insurers, letter of credit banks, rating agencies, attorneys, trustees, paying agents, registrars, remarketing or auction agents, other agents and other Persons in connection with the issuance of the Notes, the Trust Estate, this Master Indenture or any Supplemental Indenture;*

*(b) costs and expenses relating to any Credit Facility entered into in accordance with Section 6.6 hereof, whether initial or ongoing costs and expenses, including the reimbursement of the provider of any Credit Facility as provided in Section 6.6 hereof, unless the reimbursement is treated as a Note Payment pursuant to item (c) of the definition of Note Payments;*

*(c) payments, costs and expenses relating to any Interest Rate Exchange Agreement entered into in accordance with Section 6.6 hereof, whether initial or ongoing payments, costs or expenses, unless such payments are treated as Note Payments pursuant to item (c) of the definition of Note Payments; and*

*(d) arbitrage rebate payments payable to the United States with respect to any of the Notes.*

NEW ISSUE  
BOOK-ENTRY ONLY

**Ratings:**  
**Fitch:**  
**Moody's:**  
**S&P:**  
(See the section "Ratings")

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 the Commonwealth Transportation Board and other persons described herein, interest on the 2020 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"), and (ii) will not be treated as a specific item of tax preference for purposes of calculating the federal alternative minimum income tax. Bond Counsel is also of the opinion that interest on the 2020 Notes is exempt from income taxation by the Commonwealth of Virginia. See the section "Tax Matters" regarding certain other tax considerations.

## Commonwealth Transportation Board

\$\_\_\_\_,\_\_\_\_,000\*

Commonwealth of Virginia

### Federal Transportation Grant Anticipation Revenue Notes, Series 2020

**Dated: Date of Delivery**

**Due: March 15 and September 15, as shown on the inside front cover**

This Official Statement has been prepared by the Commonwealth Transportation Board of the Commonwealth of Virginia (the "Transportation Board") to provide information on the above-referenced notes (the "2020 Notes"). Selected information is presented on this cover page as a matter of convenience. To make an informed decision regarding the 2020 Notes, a prospective investor should read this Official Statement in its entirety.

<b>Security</b>	The 2020 Notes are limited obligations of the Commonwealth of Virginia (the "Commonwealth") and the Transportation Board, secured by and payable from certain federal highway assistance and other revenues, receipts and funds appropriated for such purpose by the General Assembly of the Commonwealth (the "General Assembly") or allocated for such purpose by the Transportation Board from certain amounts appropriated to it by the General Assembly, and do not create or constitute a debt or a pledge of the full faith and credit of the Commonwealth or any of its political subdivisions. See the section "Sources of Payment and Security for the GARVEE Notes."
<b>Issued Pursuant to</b>	The 2020 Notes will be issued pursuant to a Master Trust Indenture dated as of February 1, 2012, as previously supplemented and amended, and a Seventh Supplemental Trust Indenture dated as of [September] 1, 2020, each between the Transportation Board and U.S. Bank National Association, as trustee.
<b>Purpose</b>	The 2020 Note proceeds are being used to pay (i) the costs of certain eligible transportation projects in the Commonwealth and (ii) certain costs related to the issuance of the 2020 Notes. See the sections "Introduction" "GARVEE Notes Program" and "Estimated Sources and Uses of Proceeds of the 2020 Notes."
<b>Interest Rates/Yields</b>	See inside front cover.
<b>Interest Payment Dates</b>	March 15 and September 15, commencing March 15, 2021.
<b>Denomination</b>	\$5,000 or multiples thereof.
<b>Redemption</b>	See inside front cover and the section "The 2020 Notes."
<b>Closing/Delivery Date</b>	On or about [September __], 2020.*
<b>Registration</b>	Book-entry only through the facilities of The Depository Trust Company.
<b>Trustee/Paying Agent</b>	U.S. Bank National Association, Richmond, Virginia.
<b>Financial Advisor</b>	Public Resources Advisory Group, New York, New York.
<b>Bond Counsel</b>	Kutak Rock LLP, Richmond, Virginia.

The 2020 Notes will be awarded pursuant to electronic competitive bidding to be held via *PARITY*® Competitive Bidding System on [September \_\_], 2020,\* unless postponed, as set forth in the Notice of Sale contained in Appendix H to this Official Statement.

Dated: \_\_\_\_\_, 2020

\* Preliminary, subject to change.

This Preliminary Official Statement and the information contained herein are subject to change, completion and amendment without notice. The 2020 Notes may not be sold nor may an offer to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the 2020 Notes in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

# COMMONWEALTH TRANSPORTATION BOARD

\$\_\_\_\_,\_\_\_\_,000\*

Commonwealth of Virginia

Federal Transportation Grant Anticipation Revenue Notes, Series 2020

(Base CUSIP\*\* Number 927790)

<u>Maturity*</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP** Suffix</u>
March 15, 2021	\$			
September 15, 2021				
March 15, 2022				
September 15, 2022				
March 15, 2023				
September 15, 2023				
March 15, 2024				
September 15, 2024				
March 15, 2025				
September 15, 2025				
March 15, 2026				
September 15, 2026				
March 15, 2027				
September 15, 2027				
March 15, 2028				
September 15, 2028				
March 15, 2029				
September 15, 2029				
March 15, 2030				
September 15, 2030				
March 15, 2031				
September 15, 2031				
March 15, 2032				
September 15, 2032				
March 15, 2033				
September 15, 2033				
March 15, 2034				
September 15, 2034				
March 15, 2035				
September 15, 2035				

## Optional Redemption

The 2020 Notes maturing on or before September 15, 2030, are not subject to optional redemption prior to their respective maturity dates. The 2020 Notes maturing on and after March 15, 2031, are subject to optional redemption, at the sole discretion of the Transportation Board, prior to their maturity on and after September 15, 2030, in whole or in part at any time, at a redemption price equal to 100% of the principal amount of the 2020 Notes redeemed, plus accrued interest to the date fixed for redemption.

## Mandatory Redemption

Mandatory sinking fund redemption provisions will be included in the final Official Statement only if the successful bidder elects to combine serial maturities into one or more term notes in the manner set forth in the Notice of Sale. See "Notice of Sale" in Appendix H hereto.

\* Preliminary, subject to change.

\*\* See the last paragraph on page (i) regarding the use of CUSIP numbers in this Official Statement.



## **COMMONWEALTH TRANSPORTATION BOARD**

Shannon Valentine, *Chairperson of the Transportation Board and Secretary of Transportation*  
F. Dixon Whitworth, Jr., *Vice-Chairman*

Stephen C. Brich	W. Sheppard Miller, III
Carlos M. Brown	Jennifer Mitchell
Alison DeTuncq	Cedric Bernard Rucker
Bert Dodson, Jr.	Raymond D. Smoot, Jr.
Mary H. Hynes	Jerry L. Stinson
Stephen A. Johnsen	Marty Williams
E. Scott Kasprowicz	Greg Yates
John Malbon	

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Stephen C. Brich, *Commissioner of Highways*  
Laura Farmer, *Chief Financial Officer*

## **OFFICE OF THE ATTORNEY GENERAL**

Mark R. Herring, *Attorney General*  
Julie Whitlock, *Senior Assistant Attorney General*

## **TRUSTEE**

U.S. Bank National Association  
Richmond, Virginia

## **BOND COUNSEL**

Kutak Rock LLP  
Richmond, Virginia

## **FINANCIAL ADVISOR**

Public Resources Advisory Group  
New York, New York

The 2020 Notes are exempt from registration under the Securities Act of 1933, as amended. The 2020 Notes are also exempt from registration under the securities laws of the Commonwealth of Virginia.

No dealer, broker, salesman or other person has been authorized by the Transportation Board 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 the Transportation Board. 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 2020 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 the Transportation Board and the purchasers or owners of any of the 2020 Notes. The information and expressions of opinion in this Official Statement are subject to change without notice, and neither the delivery of this Official Statement or any sale made under it will, under any circumstances, create any implication that there has been no change in the affairs of the Transportation Board since the date of this Official Statement.

All quotations from and summaries and explanations of provisions of law and documents herein do not purport to be complete, and reference is made to such laws and documents for full and complete statements of their provisions. Any statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinion and not as representations of fact. This Official Statement speaks as of its date except where specifically noted otherwise and is subject to change without notice. neither the delivery of this Official Statement, any sale made hereunder, nor any filing of this Official Statement shall under any circumstances create an implication that there has been no change in the affairs of the Transportation Board since the date of this Official Statement or imply that any information herein is accurate or complete as of any later date. The information presented in this Official Statement has been obtained from the Transportation Board and other sources that are believed to be reliable, but such information is not guaranteed to be accurate or complete and should not be construed as a representation by a source as to the information provided by another source.

This Official Statement contains statements which, to the extent they are not recitations of historical fact, constitute "forward-looking statements." In this respect, the words, "estimate," "project," "anticipate," "expect," "intend," "believe" and similar expressions are intended to identify forward-looking statements. A number of important factors affecting the Transportation Board and its financial results could cause actual results to differ materially from those stated in the forward-looking statements.

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Third parties may engage in transactions that stabilize, maintain or otherwise affect the price of the 2020 Notes, including transactions to (i) over allot in arranging the sales of the 2020 Notes and (ii) make purchases in sales of 2020 Notes for long or short accounts on a when-issued basis or otherwise, at such prices, in such amounts and in a manner beyond the Transportation Board's control. Such stabilization, if commenced, may be discontinued at any time.

References to web site 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 web sites and the information or links contained therein are not incorporated into, and are not part of, this final official statement for purposes of, and as that term is defined in, SEC rule 15c2-12.

CUSIP is a registered trademark of the American Bankers Association, used by Standard & Poor's in its operation of the CUSIP Service Bureau for the ABA. CUSIP (Committee on Uniform Securities Identification Procedures) numbers used in this Official Statement have been assigned by an organization not affiliated with the Transportation Board, and the Transportation Board is not responsible for the selection or use of the CUSIP numbers. CUSIP numbers are included solely for the convenience of bondholders and no representation is made as to the correctness of such CUSIP numbers. CUSIP numbers assigned to securities may be changed during the term of such securities based on a number of factors including, but not limited to, the refunding or defeasance of such securities or the use of secondary market financial products. The Transportation Board has not agreed to, and there is no duty or obligation to, update this Official Statement to reflect any change or correction in the CUSIP numbers set forth above.

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**OFFICIAL STATEMENT**  
**Commonwealth Transportation Board**  
**\$\_\_\_\_,\_\_\_\_,000\***  
**Commonwealth of Virginia**  
**Federal Transportation Grant Anticipation Revenue Notes, Series 2020**

**INTRODUCTION**

This Official Statement is provided by the Commonwealth Transportation Board (the “Transportation Board”), a board created and existing pursuant to the laws of the Commonwealth of Virginia (the “Commonwealth” or “Virginia”), to furnish information with respect to the offering of \$\_\_\_\_,\_\_\_\_,000\* aggregate principal amount of the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020 (the “2020 Notes”). Terms used in this Official Statement and not defined herein are defined in Appendix A, “*Definitions and Summaries of the Indenture and the Payment Agreement.*”

*This Introduction contains certain information for summary purposes only. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. The information contained in this Official Statement is given as of the date stated on the front cover.*

**Commonwealth Transportation Board**

The Transportation Board was created by the enactment of Chapter 2, Title 33.2 of the Code of Virginia of 1950, as amended, and establishes the administrative policies for Virginia's transportation system. The powers and duties of the Transportation Board include, among other things, the allocation of funds in the Transportation Trust Fund, as hereinafter defined, and the issuance of bonds, notes and other obligations to finance transportation needs, including needs for highway and public transportation. See the section “*Commonwealth Transportation Board and Virginia Department of Transportation.*”

**The 2020 Notes**

The issuance of the 2020 Notes is authorized by the provisions of (i) the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, Article 4, Chapter 15, Title 33.2 of the Code of Virginia (the “GARVEE Act”); (ii) the Transportation Development and Revenue Bond Act, Article 4, Chapter 17, Title 33.2 of the Code of Virginia (the “Revenue Bond Act”); and (iii) a resolution adopted by the Transportation Board on July 15, 2020. The 2020 Notes are being issued pursuant to a Master Trust Indenture dated as of February 1, 2012, as previously supplemented and amended (the “Master Indenture”), and as further supplemented by a Seventh Supplemental Trust Indenture dated as of September 1, 2020 (the “Seventh Supplemental Indenture” and, together with the Master Indenture, the “Indenture”), each between the Transportation Board and U.S. Bank National Association, as trustee (the “Trustee”).

The 2020 Notes are the seventh series of notes issued by the Transportation Board under the GARVEE Act. See the section “*GARVEE Notes Program.*” The 2020 Notes, the previous notes issued under the Master Indenture and any additional notes issued in the future under the Master Indenture will be referred to collectively as the “GARVEE Notes.”

**Purpose of the 2020 Notes**

The Transportation Board will use the net proceeds of the 2020 Notes to provide for the payment of certain costs of the 2020 Project, as hereinafter defined, and costs related to the issuance of the 2020 Notes. The Transportation Board expects to pay costs associated with approximately eleven transportation projects with the net proceeds of the 2020 Notes (the “2020 Project”). See the section “*The 2020 Project.*”

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\* Preliminary, subject to change.

Pursuant to the Seventh Supplemental Indenture, the Transportation Board will deposit portions of the proceeds of the 2020 Notes into the 2020 Notes COI Account and the VDOT Funding Account, each within the Project Fund established pursuant to the Indenture. See the section *“Estimated Sources and Uses of Proceeds of the 2020 Notes.”* From time to time, the Transportation Board will requisition funds from the 2020 Notes COI Account or the VDOT Funding Account pursuant to the terms of the Indenture to pay the issuance costs of the 2020 Notes or a portion of the costs of the 2020 Project, respectively.

### **Limited Obligations; Security and Sources of Payment**

The 2020 Notes are limited obligations of the Commonwealth and the Transportation Board payable solely from and secured by certain federal highway assistance and other revenues, receipts and funds appropriated for such purpose by the General Assembly of the Commonwealth (the “General Assembly”), or allocated for such purpose by the Transportation Board from certain amounts appropriated to it by the General Assembly, and do not create or constitute a debt or a pledge of the full faith and credit of the Commonwealth or any of its political subdivisions.

Specifically, the 2020 Notes are payable, subject to appropriation by the General Assembly, (i) first from federal-aid highway construction reimbursements and any other federal highway assistance received from time to time by the Commonwealth under or in accordance with Title 23 of the United States Code (“Title 23”), or any successor program established under federal law, from the Federal Highway Administration (“FHWA”) and any successor or additional federal agencies (the “Federal Highway Reimbursements”) with respect to the project or projects to be financed by the 2020 Notes (the “Project-Specific Reimbursements”), (ii) then, at the discretion of the Transportation Board, to the extent required, from legally available revenues of the Transportation Trust Fund established pursuant to Section 33.2-1524 of the Code of Virginia (the “Transportation Trust Fund”), including without limitation Federal Highway Reimbursements other than Project-Specific Reimbursements (the “Indirect Reimbursements”), and (iii) then from such other funds, if any, designated by the General Assembly for such purpose (collectively, the “Revenues”). The Transportation Board has pledged and granted a lien on the Revenues to secure the 2020 Notes pursuant to the Indenture. In addition, the 2020 Notes are payable from and secured by moneys held in certain funds established under the Indenture. The 2020 Notes are being issued on parity with the Outstanding Notes, as hereinafter defined, and all future series of GARVEE Notes issued under the Indenture.

**Pursuant to the Indenture, any moneys and investments held in the Project Fund, including the 2020 Notes COI Account and the VDOT Funding Account, are expressly excluded from the Trust Estate and do not secure the 2020 Notes. See the section *“Sources of Payment and Security for the GARVEE Notes”* and Appendix A, *“Definitions and Summaries of the Indenture and the Payment Agreement.”***

**The 2020 Notes are not secured by any mortgage or lien on any transportation facilities of the Commonwealth or the Transportation Board. In the event of a failure to make any payment on the 2020 Notes when due, neither the Trustee nor the registered owners of the 2020 Notes shall have any right to take possession of, or to exclude the Commonwealth or the Transportation Board from, any transportation facilities. See the section *“Sources of Payment and Security for the GARVEE Notes.”***

### **Approval of Issuance of 2020 Notes and Terms and Structure of the 2020 Notes**

Under the GARVEE Act, the Transportation Board must obtain the consent of the Governor of the Commonwealth (the “Governor”) prior to the issuance of all GARVEE Notes. In addition, Section 2.2-2416(7) of the Code of Virginia vests the Treasury Board of the Commonwealth (the “Treasury Board”) with the power, among other things, to approve the terms and structure of bonds and notes issued by state agencies, including any GARVEE Notes. On August 19, 2020, the Treasury Board adopted a resolution approving the terms and structure of the 2020 Notes within certain parameters and delegated to the State Treasurer of the Commonwealth (the “State Treasurer”) the power to approve the final terms and structure of the 2020 Notes within such parameters. The Transportation Board must still obtain the consent and approval, respectively, of the Governor and the State Treasurer prior to the issuance of the 2020 Notes, which the Transportation Board expects to obtain in advance of the anticipated issuance date.

## **GARVEE NOTES PROGRAM**

### **General**

The GARVEE Act authorizes the Transportation Board to issue GARVEE Notes as revenue obligations of the Commonwealth pursuant to the Transportation Development and Revenue Bond Act, in one or more series from time to time, provided that the aggregate principal amount outstanding at any time shall not exceed \$1.2 billion, and exclusive of (i) the aggregate principal amount of any revenue obligations that may be issued to refund GARVEE Notes in accordance with Section 33.2-1512 of the Code of Virginia, and (ii) any amounts issued for financing expenses, including, without limitation, any original issue discount (collectively, the “GARVEE Notes Program”).

Proceeds of GARVEE Notes will be used exclusively for the purpose of providing funds, together with any other available funds, for paying costs incurred or to be incurred for construction or funding of eligible projects designated by the Transportation Board. Proceeds of GARVEE Notes, including any premium received on the sale thereof, shall be made available by the Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying costs of the projects. Proceeds of GARVEE Notes may be so used together with any federal, local, or private funds that may be made available for such purpose.

The GARVEE Notes Program is expected to be used to fund eligible projects selected by the Transportation Board through the Six-Year Improvement Program (“SYIP”). Beginning in 2016, the eligible projects funded by the GARVEE Notes Program are selected through the High Priority Projects Program pursuant to Section 33.2-370 of the Code of Virginia or the Construction District Grant Program pursuant to Section 33.2-371 of the Code of Virginia. The Virginia Secretary of Transportation must ensure that available GARVEE proceeds are allocated to projects in these program areas (Chapter 2, 2018 General Assembly Special Session I, Item 433.11.). Other state and federal funding sources are also provided to these program areas.

High Priority Projects are projects of regional or statewide significance, such as projects that reduce congestion or increase safety, accessibility, environmental quality, or economic development. The Transportation Board uses funds allocated to the High Priority Projects Program for projects and strategies that address a transportation need identified for a corridor of statewide significance or a regional network in the Statewide Transportation Plan.

The Construction District Grant Program is established in each highway construction district to fund projects and strategies that address a need in the Statewide Transportation Plan. The Transportation Board solicits eligible candidate projects and strategies from local governments for consideration in the applicable highway construction district's grant program. Funds available to each Construction District are determined by a distribution formula set forth in the Code of Virginia.

The Transportation Board does not expect to issue additional GARVEE Notes in 2020, but the Transportation Board may elect to do so and may elect to issue New Money GARVEE Notes, as hereinafter defined, in future years to support transportation projects in the Commonwealth.

### **Memorandum of Agreement**

The Transportation Board, FHWA and the Virginia Department of Transportation (“VDOT”) have entered into a Memorandum of Agreement as amended and dated August 21, 2017 (the “MOA”), which sets forth the procedures for managing the eligible highway projects to be financed under the GARVEE Notes Program. Prior to construction of, or acquisition of right of way for, an eligible project, the Transportation Board, VDOT and FHWA will enter into a project agreement to reflect the respective portion of actual debt service on related GARVEE Notes and the agreement of FHWA to pay such debt service costs. VDOT and FHWA have agreed to amend the MOA to memorialize FHWA's agreement to pay costs of the 2020 Project. VDOT and FHWA may amend the MOA to account for overruns or shortages on projects based on actual expenditures and for the purpose of substituting or adding one or more eligible projects. The MOA and such project agreements relating to the GARVEE Notes Program collectively comprise the “Federal Aid Agreement.”

## Outstanding Notes

Set forth in the following chart are the issue dates, original principal amounts and outstanding principal amounts of each Series of GARVEE Notes Outstanding (the “Outstanding Notes”) prior to the issuance of the 2020 Notes:

<u>Series of GARVEE Notes Outstanding</u>	<u>Issue Date</u>	<u>Original Principal Amount</u>	<u>Outstanding Principal Amount as of September 15, 2020*</u>
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2012A (the “2012A Notes”)	March 1, 2012	\$297,590,000	\$30,160,000**
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2012B (the “2012B Notes”)	July 26, 2012	\$120,625,000	\$16,970,000**
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2013A (the “2013A Notes”)	November 21, 2013	\$273,390,000	\$45,840,000**
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2016 (the “2016 Notes”)	November 9, 2016	\$316,930,000	\$255,460,000
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue and Refunding Notes, Series 2017 (the “2017 Notes”)	December 7, 2017	\$483,000,000	\$456,305,000
Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2018 (the “2018 Notes”)	December 5, 2018	\$75,750,000	\$69,275,000
<b>Total:</b>		<b>\$1,567,285,000</b>	<b>\$874,410,000</b>

\* Excludes the September 15, 2020 principal payments.

\*\*Excludes \$130,800,000 principal amount of the 2012A Notes, \$50,495,000 principal amount of the 2012B Notes and \$123,090,000 principal amount of the 2013A Notes refunded from a portion of the proceeds of the 2017 Notes. See the section “*Debt Service Requirements.*” for the annual debt service requirements on the Outstanding Notes.

Under the GARVEE Act, the Transportation Board was authorized to issue Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes (“FRANs”), and the pledge of Federal Highway Reimbursements to the payment of any of the GARVEE Notes, was expressly made subordinate to the pledge of Federal Highway Reimbursements securing outstanding FRANs. The final maturity for FRANs was September 28, 2015, and there are no longer any FRANs outstanding. The authority of the Transportation Board to issue additional FRANs expired on July 1, 2011, and the Master Indenture prohibits the granting of any additional liens on the Revenues senior to the lien securing the GARVEE Notes.

## THE 2020 NOTES

### Description of the 2020 Notes

The 2020 Notes will be issued as fully registered obligations in book-entry form. The 2020 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 March 15 and September 15, commencing March 15, 2021, at the rates and will mature on the dates and in the amounts set forth on the inside front cover of this Official Statement.

The principal of and interest on the 2020 Notes will be payable at the corporate trust office of the Trustee in Richmond, Virginia, or at the office designated therefor by the Trustee or any successor Trustee. Interest on the 2020 Notes will be payable to the person appearing in the registration books of the Trustee as the registered owner thereof on the Record Date, as hereinafter defined, by check or draft mailed on the interest payment date to the registered owner or, following appropriate notice to the Trustee, by wire transfer on the interest payment date to any registered owner of at least \$1,000,000 in aggregate principal amount of the 2020 Notes. For so long as the 2020 Notes are registered in the name of The Depository Trust Company (“DTC”), or its nominee, principal and interest will be payable solely to DTC or its nominee as the sole registered owner of the 2020 Notes, and references herein to the registered owner shall be to DTC or its nominee.

The Indenture establishes the first day of the month in which each interest payment date occurs as the record date (the “Record Date”) for the 2020 Notes.

The 2020 Notes may be transferred or exchanged, upon presentation or surrender, as the case may be, at the corporate trust office of the Trustee in Richmond, Virginia, or at the office designated therefor by the Trustee or any successor Trustee, as provided in the Master Indenture. Any 2020 Notes, upon surrender thereof at said corporate trust office of the Trustee, with a written instrument of transfer satisfactory to the Trustee, duly executed in writing, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of 2020 Notes of the same Series, maturity and initial rate of any other authorized denominations. For every exchange or transfer of 2020 Notes, the Transportation Board or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other government charge required to be paid with respect to such exchange or transfer.

One fully registered 2020 Note for each maturity, in the applicable aggregate principal amount of such maturity, will be registered in the name of DTC or its nominee and held in book-entry form, in accordance with the Seventh Supplemental Indenture. So long as 2020 Notes are required to be registered in the name of DTC or its nominee, or a successor securities depository or a nominee therefor, transfers of beneficial ownership interests in the 2020 Notes will be settled through the book-entry-only system of DTC or such successor securities depository, if any. For a description of DTC and its book-entry-only system, see Appendix G.

### **Optional Redemption**

The 2020 Notes maturing on or before September 15, 2030, are not subject to optional redemption prior to their respective maturity dates. The 2020 Notes maturing on and after March 15, 2031, are subject to redemption prior to their maturity at the option of the Transportation Board on and after September 15, 2030, in whole or in part at any time, in whole multiples of \$5,000, and if in part from the maturities of the 2020 Notes as the Transportation Board shall determine and from any of the 2020 Notes with the same maturity date and interest rate in a manner determined by the Trustee (or DTC if then registered in the name of a nominee of DTC), at a redemption price equal to 100% of the principal amount of the 2020 Notes redeemed, plus accrued interest to the date fixed for redemption.

### **Mandatory Sinking Fund Redemption**

Mandatory sinking fund redemption provisions will be included in the final Official Statement only if the successful bidder elects to combine serial maturities into one or more term notes in the manner set forth in the Notice of Sale. See “Notice of Sale” in Appendix H hereto.

### **Selection of Notes for Redemption**

If less than all of the 2020 Notes are called for optional redemption, the maturities of the 2020 Notes to be redeemed will be called in such order as the Transportation Board may determine. If less than all of the 2020 Notes of any maturity are called for optional or mandatory redemption, the 2020 Notes to be redeemed will be selected by the Trustee (or DTC if then registered in the name of a nominee of DTC, or any successor securities depository), pursuant to DTC's rules and procedures or, if the book-entry system is discontinued, 2020 Notes will be selected by the Trustee by lot in such manner as the Trustee in its discretion may determine. In either event, each portion of \$5,000 principal amount shall be counted as one 2020 Note for such purpose.



## Notice of Redemption

Notice of the call for any redemption, identifying the 2020 Notes or portions thereof to be redeemed and specifying the terms of such redemption, shall be given by the Trustee by mailing a copy of the redemption notice by United States certified or registered first-class mail, at least 30 and not more than 60 days prior to the date fixed for redemption, to DTC, or, if DTC is no longer serving as securities depository for the 2020 Notes, to the substitute securities depository, or if none, to each registered owner of the 2020 Notes to be redeemed at the address shown on the registration books maintained by the Trustee; provided however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings of any GARVEE Notes as to which no such failure has occurred. Such notice of redemption also will be given to certain securities depositories and certain national information services which disseminate such redemption notices. Any notice mailed in such manner shall be conclusively presumed to have been duly given, whether or not any registered owner receives the notice.

If at the time of mailing of notice of any redemption of the 2020 Notes at the option of the Transportation Board there shall not have been deposited with the Trustee moneys sufficient to redeem all the 2020 Notes called for redemption, which moneys are or will be available for redemption of Notes, such notice will state that it is conditional upon the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

All 2020 Notes called for redemption will cease to bear interest on the specified redemption date, provided funds sufficient for the redemption of such 2020 Notes in accordance with the Indenture are on deposit with the Trustee. If such moneys are not available on the redemption date, such 2020 Notes or portions thereof will continue to bear interest until paid at the same rate they would have borne had they not been called for redemption. On presentation and surrender of the 2020 Notes called for redemption at the place or places of payment, such 2020 Notes will be paid and redeemed provided sufficient funds are on deposit therefor with the Trustee.

**So long as DTC or its nominee is the registered owner of the 2020 Notes, any such notices of redemption will be mailed solely to DTC and distribution of such notices to Direct Participants (as defined in Appendix G) or Indirect Participants (as defined in Appendix G) will be the sole responsibility of DTC, and distribution of such notices to Beneficial Owners (as defined in Appendix G) will be the sole responsibility of the Direct Participants, Indirect Participants, or both.**

## ESTIMATED SOURCES AND USES OF PROCEEDS OF THE 2020 NOTES

Set forth below are the amount and components of the proceeds of the sale of the 2020 Notes and the application of such proceeds on the date of delivery of the 2020 Notes:

### Sources:

Principal Amount of 2020 Notes	\$
[Net] Original Issue [Premium/Discount]	_____
Total	<u>\$</u>

### Uses:

Deposit to VDOT Funding Account (for the 2020 Project)	\$
Deposit to 2020 Notes COI Account (for the Costs of Issuance)	
Underwriters' Discount	_____
Total	<u>\$</u>

## SOURCES OF PAYMENT AND SECURITY FOR THE GARVEE NOTES

### Limited Obligations; Security and Sources of Payment

The GARVEE Notes, including the 2020 Notes, are payable, subject to appropriation by the General Assembly, from the Revenues (as herein defined), which are comprised of (i) Project-Specific Reimbursements, (ii) then, at the discretion of the Transportation Board, to the extent required, from legally available revenues of the Transportation Trust Fund, including without limitation Indirect Reimbursements, and (iii) such other funds as may be appropriated by the General Assembly for such purpose. The Transportation Board has pledged and granted a lien on the Revenues to secure the 2020 Notes pursuant to the Indenture. In addition, the 2020 Notes are payable from and secured by moneys held in certain funds established under the Indenture. The 2020 Notes are being issued on parity with the Outstanding Notes and all future series of GARVEE Notes issued under the Indenture. See Appendix A, “*Definitions and Summaries of the Indenture and the Payment Agreement.*” The GARVEE Notes, including the 2020 Notes are limited obligations of the Commonwealth and the Transportation Board and do not create or constitute a debt or a pledge of the full faith and credit of the Commonwealth or of any of its political subdivisions.

Pursuant to the Indenture, any moneys and investments held in the Project Fund, including the 2020 Notes COI Account and the VDOT Funding Account, are expressly excluded from the Trust Estate and do not secure the 2020 Notes. See Appendix A, “*Definitions and Summaries of the Indenture and the Payment Agreement.*”

The 2020 Notes are not secured by any mortgage or lien on any transportation facilities of the Commonwealth or the Transportation Board. In the event of a failure to make any payment on the 2020 Notes when due, neither the Trustee nor the registered owners of the 2020 Notes shall have any right to take possession of, or to exclude the Commonwealth or the Transportation Board from, any transportation facilities.

### Information Pertaining to Federal Highway Reimbursements

Federal Highway Reimbursements historically have been authorized by Congress under multi-year authorizing legislation. [The current legislative authorization was provided by “Fixing America's Surface Transportation Act,” (the “FAST Act”) enacted December 4, 2015. The FAST Act provides authorization through September 30, 2020.] Currently, the FAST Act includes provisions designed to provide continuity in the flow of Federal Highway Reimbursements to states, including the Commonwealth. There can be no assurance that such provisions will be included in any future federal highway funding authorization program or that, if included, such provisions will be sufficient to assure that Federal Highway Reimbursements will be available as needed if in the future Congress amends existing laws or fails to enact future funding legislation upon expiration of the current federal highway funding legislation, or if future legislation or federal administrative action reduces the amount of Federal Highway Reimbursements available to the Commonwealth. See the subsection “*Information Concerning the Funding of Federal-Aid Highways – Authorization.*”

The primary funding mechanism for Federal Highway Reimbursements is the Federal Highway Trust Fund (“FHTF”). Fuel taxes and other fees flow into the FHTF and therefore its status and the viability of the entire program for Federal Highway Reimbursements can be adversely affected by certain events. See the section “*Information Concerning the Funding of Federal-Aid Highways.*”

**Changes in law, regulation or policy or a decrease in federal revenues may materially adversely affect the availability of Federal Highway Reimbursements. There can be no assurance that there will not be future changes in law, regulation, policy, or the availability of revenues at the federal level which may materially adversely affect the future availability of Federal Highway Reimbursements to pay debt service on the 2020 Notes and any other GARVEE Notes.**

### Flow of Revenues under the Indenture; “Back-Stop” Pledge of Indirect Reimbursements

In accordance with Article X, Section 7 of the Constitution of Virginia, and Section 2.2-1802 of the Code of Virginia, all Federal Highway Reimbursements are paid into the Commonwealth's treasury. Specifically, all Federal Highway Reimbursements, including the Project-Specific Reimbursements and the Indirect Reimbursements, are deposited into the Federal Fund. The Federal Fund is a sub-fund within the Transportation Trust Fund maintained to account for the receipt of all Federal Highway Reimbursements and the reimbursement of related maintenance

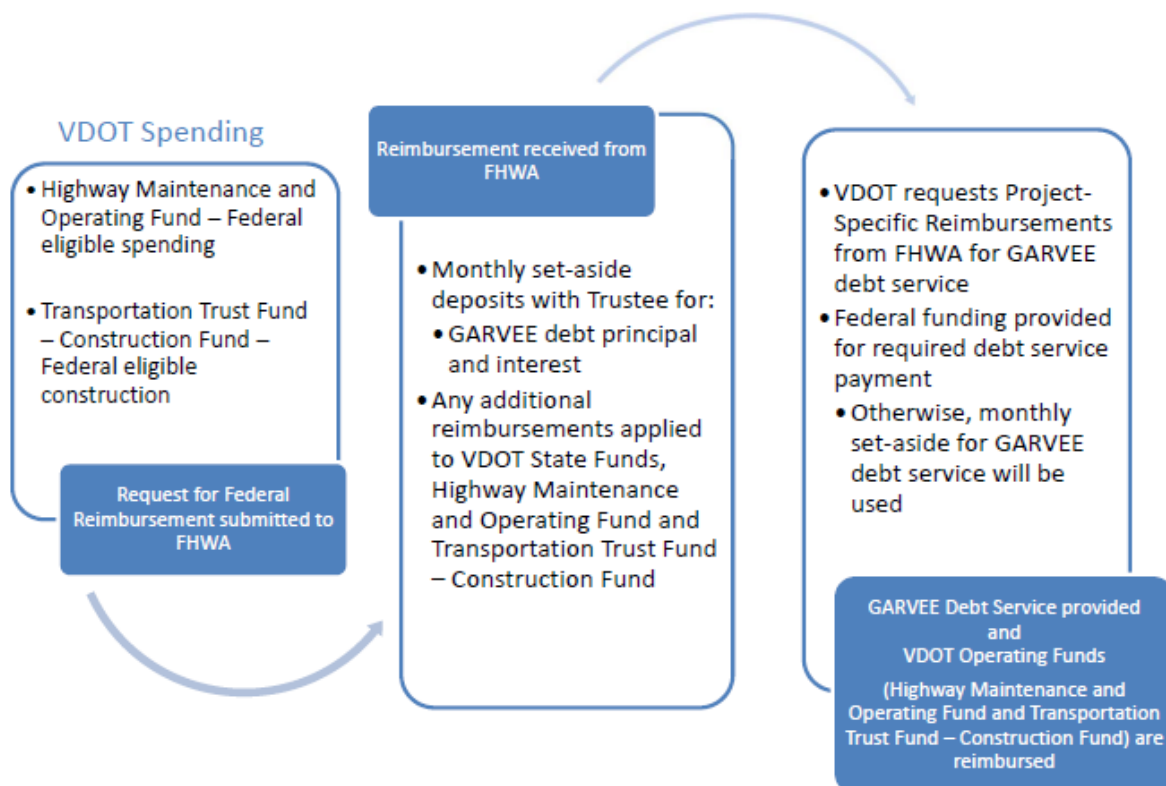
expenditures from the HMO Fund, as hereinafter defined, and expenditures from various other subfunds within the Transportation Trust Fund after provision is made for the payment of Program Costs (as defined in the Master Indenture). See Appendix A, “Definitions and Summaries of the Indenture and the Payment Agreement.”

Pursuant to the Master Indenture, the Transportation Board has agreed, to the extent permitted by law, to maintain the Federal Fund and the deposit of Federal Highway Reimbursements therein, including both the Project-Specific Reimbursements and the Indirect Reimbursements. As more specifically described below, all Federal Highway Reimbursements constitute a portion of the Revenues pledged to the payment of the 2020 Notes and all other GARVEE Notes. Since all of the Federal Highway Reimbursements are expected to flow through the Transportation Trust Fund, the Transportation Board has exercised its discretion to make all of them available for the payment of the GARVEE Notes to the extent that the Project-Specific Reimbursements alone are insufficient for such purpose.

In connection with each series of GARVEE Notes, including the 2020 Notes, the Master Indenture requires the Transportation Board to establish an account within the Debt Service Fund (each a “Series Account”). Each such account is used to provide for the collection of Revenues and the payment of debt service on the respective series of GARVEE Notes.

The Master Indenture provides that the use of the Federal Fund each month is to make a monthly deposit into each Series Account towards the next ensuing debt service payments on the respective series of GARVEE Notes. The Transportation Board expects to receive each Project-Specific Reimbursement within a few days before the corresponding payment of debt service on the GARVEE Notes. To the extent such Project-Specific Reimbursement covers the payment of the corresponding GARVEE Note debt service payment, the other Federal Highway Reimbursements in the respective Series Account will be transferred back to the Federal Fund. See Appendix A, “Definitions and Summaries of the Indenture and the Payment Agreement.”

The following chart presents the flow of Federal Highway Reimbursements through the Federal Fund, and the Series Accounts in the Debt Service Fund established under the Indenture.



## **The Federal Aid Agreement**

Under the MOA, the Transportation Board, VDOT and FHWA have agreed to procedures for managing the eligible highway projects to be financed under the GARVEE Notes Program. The Transportation Board has determined to apply funding received under the Federal Aid Agreement to pay debt service on the Outstanding Notes, the 2020 Notes and any other GARVEE Notes. The Transportation Board is responsible for paying any costs of the projects not funded from GARVEE Note proceeds using other funds. Under the MOA, the Transportation Board and VDOT agree to obligate funds to cover debt service on the GARVEE Notes for that year as the first obligation of the year, prior to obligating funds for any other purpose. See the section *“Information Concerning the Funding of Federal-Aid Highways.”* VDOT and FHWA have agreed to amend the MOA to memorialize FHWA's agreement to pay costs of the 2020 Project. Upon the issuance of additional GARVEE Notes, an amendment to the MOA and separate agreements relating to the projects financed from the proceeds thereof and a debt service schedule relating to such additional GARVEE Notes will be entered into and become part of the Federal Aid Agreement.

**Federal law provides that the Federal Aid Agreement (i) does not constitute a commitment, guarantee or obligation on the part of the United States to provide for the payment of debt service on the 2020 Notes or any other GARVEE Notes and (ii) does not create any rights in any party, other than the Transportation Board and VDOT, against FHWA.**

## **Indenture Covenants Concerning Federal Highway Reimbursements**

In the Master Indenture, the Transportation Board covenants to annually apply for and cooperate with FHWA in order to receive the greatest amount of Federal Highway Reimbursements reasonably available to the Commonwealth that will become Revenues for payment of GARVEE Notes, Program Costs or Subordinated Obligations, if any. See the section *“Information Concerning the Funding of Federal-Aid Highways”* and Appendix A, *“Definitions and Summaries of the Indenture and the Payment Agreement.”* For each federal fiscal year (each a “FFY”) during which GARVEE Notes are or will be Outstanding, as soon as practicable prior to or in such FFY, the Transportation Board will request the obligation of funds sufficient to make the payments on the GARVEE Notes and Program Costs coming due in that FFY prior to obligating funds for Federal Highway purposes. See Appendix A, *“Definitions and Summaries of the Indenture and the Payment Agreement.”*

The Master Indenture provides that the Transportation Board will comply with its obligations under the Federal Aid Agreement and will take all other actions required to maintain the Federal Aid Agreement in full force and effect. The Master Indenture further provides that the Transportation Board will take all necessary actions to ensure that (i) each project at all times qualifies as a Qualified Federal Aid Transportation Project; (ii) each project that may be financed, in whole or in part, with Federal Highway Reimbursements paid pursuant to the Federal Aid Agreement, at all times qualifies as a project with respect to which the Commonwealth is entitled to reimbursement of previously-expended funds under 23 U.S.C. Section 115, as amended, and the regulations promulgated thereunder (or any successor provision thereto); and (iii) the Federal Aid Agreement is maintained in full force and effect for payments of Federal Highway Reimbursements in an amount at least equal to the payments due on the GARVEE Notes. The Master Indenture also provides that the pledge by the Transportation Board of the Revenues for the payment of the GARVEE Notes and Program Costs shall be irrevocable at least until all the GARVEE Notes have been paid or deemed paid in full, and that the Transportation Board is prohibited from granting of any lien senior to the lien on the Project-Specific Reimbursements securing the GARVEE Notes. See Appendix A, *“Definitions and Summaries of the Indenture and the Payment Agreement.”*

For a discussion of how funds are obligated for Federal Highway Reimbursements under Title 23 and other requirements of federal law that must be satisfied before FHWA pays Federal Highway Reimbursements to the Commonwealth, see the section *“Information Concerning the Funding of Federal-Aid Highways.”*

## **Additional GARVEE Notes**

The Transportation Board may issue additional Series of GARVEE Notes under the Master Indenture on parity with the 2020 Notes and the Outstanding Notes upon satisfaction of various conditions. The Master Indenture provides that additional GARVEE Notes may be issued only (i) to pay costs of the projects designated by the Transportation Board pursuant to the GARVEE Act or other costs authorized under the GARVEE Act (“New

Money GARVEE Notes”), (ii) to refund any GARVEE Notes issued under the Master Indenture (“Refunding GARVEE Notes”), and (iii) for a combination of such purposes. See Appendix A, “*Definitions and Summaries of the Indenture and the Payment Agreement.*”

The Master Indenture provides that before any Series of New Money GARVEE Notes are issued, an Authorized Board Representative must certify that, among other things, the amount of Federal Highway Reimbursements to be received and actually received, in either the FFY in which the proposed Series of New Money GARVEE Notes are to be issued or in the immediately preceding FFY, as shown in the certificate, shall have been sufficient to pay an amount representing at least four times the sum of (i) the maximum combined annual Note Payments of any Outstanding GARVEE Notes (other than Notes constituting Subordinated Obligations) and the Series of New Money GARVEE Notes proposed to be issued (unless such Notes are Subordinated Obligations) and (ii) any payments to be paid in such year for Program Costs, including without limitation payments to the provider of a Credit Facility or an Interest Rate Exchange Agreement which are payable on a parity with Note Payments on Outstanding GARVEE Notes (other than Notes constituting Subordinated Obligations) pursuant to the Master Indenture. See Appendix A, “*Definitions and Summaries of the Indenture and the Payment Agreement.*”

Under the GARVEE Act, the Transportation Board must obtain the consent of the Governor prior to the issuance of any GARVEE Notes. In addition, Section 2.2-2416(7) of the Code of Virginia requires that the Treasury Board provide its approval of the terms and structure of all GARVEE Notes prior to the issuance of such GARVEE Notes. See the subsection “*Introduction – Approval of Issuance of 2020 Notes and Terms and Structure of the 2020 Notes.*”

The GARVEE Act authorizes the Transportation Board to issue additional GARVEE Notes, provided that the aggregate principal amount outstanding at any time shall not exceed \$1.2 billion, exclusive of (i) the aggregate principal amount of any revenue obligations that may be issued to refund GARVEE Notes in accordance with Section 33.2-1512 of the Code of Virginia, and (ii) any amounts issued for financing expenses (including, without limitation, any original issue discount).

**The aforementioned limitations on the issuance of GARVEE Notes under the GARVEE Act could be changed by the General Assembly at any time.**

#### **Other Revenues Available for Debt Service**

If Federal Highway Reimbursements are insufficient to pay debt service on the GARVEE Notes, the GARVEE Act provides that, subject to appropriation by the General Assembly and at the discretion of the Transportation Board, other legally available revenues in the Transportation Trust Fund may be used to pay the debt service and further, other funds may be designated by the General Assembly to pay debt service. The Transportation Board, the Treasury Board and the Secretary of Finance of the Commonwealth (the “Secretary of Finance”) have entered into a Payment Agreement, as hereinafter defined, under which each party agreed to cooperate and use best efforts to have the General Assembly make the necessary appropriations of Federal Highway Reimbursements and, to the extent required, other revenues in the Transportation Trust Fund to pay debt service on the GARVEE Notes. See the subsection “*Sources of Payment and Security for the GARVEE Notes – Payment Agreement,*” and the section “*Transportation Trust Fund.*”

#### **[COVID SECTION TO BE UPDATED]**

#### **Recent Developments Pertaining to COVID-19**

The World Health Organization has declared a pandemic following the outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus that is currently negatively impacting most, if not all, areas of the world, including the United States and the Commonwealth. Within the United States, the federal government and various state and local governments, as well as private entities and institutions, have implemented a variety of different efforts aimed at preventing the spread of COVID-19 including, but not limited to, travel restrictions, voluntary and mandatory quarantines, event postponement and cancellations, voluntary and mandatory work from home arrangements, and facility closures. The impact of these various measures, as well as general concerns related to the global and national public health emergency and other contributing factors (including an ongoing oil

production dispute), have also resulted in significant volatility in the stock and credit markets, dislocations in the labor market and a general consensus that the global and national economies are distressed.

The economic and financial fallout from COVID-19 on the United States, including the Commonwealth, is expected to be significant and may be prolonged. For example, unemployment has increased significantly as service sector workers and others who cannot telework experience reduced hours or are laid-off because of decreases in business demand. In addition, supply shortages have increased as the production and distribution of raw and finished materials are adversely affected by efforts to mitigate the impact of COVID-19 on the labor force. The long-term and short-term capital markets have experienced significant volatility and deterioration in value, adversely affecting the liquidity and operations of private companies.

*Steps Taken by the Governor of Virginia to Address the COVID-19 Pandemic.*

On March 12, 2020, Governor Northam declared a state of emergency in the Commonwealth as a result of the COVID-19 pandemic (which declaration was reaffirmed and continued on May 26, 2020). Subsequently, he imposed restrictions designed to address the COVID-19 pandemic in the Commonwealth. Beginning on March 24, 2020, and lasting through May 14, 2020, those restrictions included the prohibition of public and private in-person gatherings of ten (10) or more people, the closure of certain recreational and entertainment businesses and the ban on more than ten (10) patrons in nonessential retail stores capable of maintaining required social distancing (collectively, the “Restrictions”). Businesses offering professional rather than retail services could have remained open, but they were encouraged to utilize teleworking as much as possible. Further, in-person instruction at schools in the Commonwealth was cancelled for the remainder of the academic year.

On March 30, 2020, Governor Northam issued a statewide Stay at Home executive order to protect the health and safety of Virginians and mitigate the spread of COVID-19, effective until June 10, 2020, unless amended or rescinded (the “Stay at Home Order”). The Stay at Home Order directed all Virginians to stay home except in extremely limited circumstances. Individuals could leave their residence for allowable travel, including to seek medical attention, work, care for family or household members, obtain goods and services like groceries, prescriptions, and others as outlined in the Restrictions, and engage in outdoor activity with strict social distancing requirements. The Stay at Home Order also directed all Virginia institutions of higher education to stop in-person classes and instruction. Private campgrounds were closed for short-term stays, and beaches were closed statewide except for fishing and exercise.

Also on March 30, 2020, Governor Northam requested federal disaster assistance, which was received in the form of a Major Disaster Declaration on April 2, 2020. A Major Disaster Declaration designation provides federal public assistance for all areas in the Commonwealth affected by COVID-19 at a federal cost share of 75%. The cost share allows state agencies, local governments and certain non-profit organizations to purchase supplies and receive reimbursements for COVID-19 related costs under its Public Assistance program. The Major Disaster Declaration also authorizes federal agencies to provide direct emergency assistance to the Commonwealth.

On May 8, 2020, Governor Northam signed a new executive order that presented a detailed framework for the first phase (“Phase One”) of the “Forward Virginia” plan to safely and gradually ease the Restrictions while mitigating the spread of COVID-19. Under Phase One, which became effective on May 15, 2020, the executive order moved the Commonwealth into a “Safer at Home” strategy that continued the ban on social gatherings of more than 10 people and maintained recommendations for social distancing, teleworking, and wearing face coverings. All businesses were directed to make modifications to maintain at least six feet of physical distancing, increase cleaning and sanitization of high contact surfaces, and provide enhanced workplace safety measures. Further, under Phase One, retail establishments were allowed to operate at 50 percent occupancy, restaurant and beverage establishments could offer outdoor dining at 50 percent occupancy, personal grooming services could begin operating with one patron per service provider, and fitness centers could offer outdoor exercise services. Campgrounds could also begin taking reservations for short-term stays. The Governor subsequently amended this executive order in part to allow all beach areas within the Commonwealth to reopen for individual and family recreational activity, in addition to exercise and fishing, subject to certain operating procedures. Implementation of Phase One was delayed by two weeks for the City of Richmond, the County of Accomack and certain Northern Virginia localities to allow such localities more time to meet the health metrics outlined by the Commonwealth. As of May 29, 2020, all localities in the Commonwealth had entered into Phase One.

On June 2, 2020, Governor Northam signed a new executive order that presented the second phase (“Phase Two”) of the “Forward Virginia” plan. Under Phase Two, which became effective on June 5, 2020, the executive order maintained for the Commonwealth a Safer at Home strategy with continued recommendations for social distancing, teleworking, and requiring individuals to wear face coverings in indoor public settings. The maximum number of individuals permitted in a social gathering was increased from 10 to 50 people. All businesses were still required to adhere to physical distancing guidelines. Restaurant and beverage establishments could offer indoor dining at 50 percent occupancy, fitness centers could open indoor areas at 30 percent occupancy, and certain recreation and entertainment venues without shared equipment may open with restrictions. These venues include museums, zoos, aquariums, botanical gardens, and outdoor concert, sporting, and performing arts venues. Swimming pools could also expand operations to both indoor and outdoor exercise, diving, and swim instruction. The Phase Two guidelines for religious services, non-essential retail, and personal grooming services were largely the same as they were in Phase One. Overnight summer camps, most indoor entertainment venues, amusement parks, fairs, and carnivals also remained closed in Phase Two. Implementation of Phase Two was delayed by two weeks for the City of Richmond and certain Northern Virginia localities. As of June 12, 2020, all localities in the Commonwealth had entered into Phase Two.

On June 18, 2020, Governor Northam presented Phase Three of the “Forward Virginia” plan, which went into effect across the Commonwealth on July 1, 2020. In Phase Three, the Commonwealth will maintain a Safer at Home strategy with continued recommendations for social distancing and teleworking, and the requirement that individuals wear face coverings in indoor public settings. The maximum number of individuals allowed in social gatherings increased from 50 to 250 people. All brick and mortar retail establishments are allowed to resume full operations and all restaurant and beverage establishments are allowed to offer indoor and outdoor dining, provided that all such businesses continue to follow physical distancing guidelines, frequently clean and sanitize high contact surfaces, and keep enhanced workplace safety measures in place. Additionally, fitness centers may open indoor areas at 75 percent occupancy, and recreation and entertainment venues may operate at 50 percent occupancy, or a maximum of 1,000 persons. Swimming pools may also expand operations to free swim in addition to indoor and outdoor exercise, diving and swim instruction. Overnight summer camps are required to remain closed in Phase Three.

Given the fluidity of the public health crisis, there is no basis to predict how long Phase Three and any additional phases may be in place before all Restrictions have been lifted or whether the Governor may determine to re-impose some or all of the Restrictions in one or more localities or regions of the Commonwealth.

#### *Fiscal Impact of the COVID-19 Pandemic on the Commonwealth.*

Revenues. For the fiscal year ended June 30, 2020, the Restrictions and the Stay at Home Order resulted in a negative revenue impact that forced budget reductions. On June 15, 2020, the Virginia Secretary of Finance released the May 2020 monthly financial report (the “May Revenue Report”), which is the second monthly financial report to reflect significant effects in the Commonwealth from the efforts to mitigate the spread of COVID-19. The Commonwealth historically collects one-third of its annual revenue in the last quarter of the fiscal year. For the fiscal year ended June 30, 2020, the Governor extended the due date for certain Virginia tax payments to June 1 from the regular May 1 date. Accordingly, any income tax payment due during the period April 1 to June 1 could be submitted on or before June 1 without penalty. As a result, the May Revenue Report indicated that total general fund revenue collections in May 2020 decreased by 20.6 percent compared to May 2019 collections. Specific information on the major tax revenue sources reflected predominantly negative results. For example, the May Revenue Report indicated that (a) net individual income tax revenues (approximately 70 percent of General Fund revenues) through May 2020 were down 3.6 percent from the same period last fiscal year and are trailing the annual estimate of 1.3 percent growth; (b) sales and use tax revenues (approximately 17 percent of General Fund revenues), which reflect sales through April 2020, decreased 12.5 percent compared to the prior month but have risen 5.4 percent on a year-to-date basis, behind the annual estimate of 7.4 percent growth; and (c) corporate income tax revenues (approximately 5 percent of General Fund revenues) through May 2020 on a year-to-date basis have increased 1.6 percent compared to the forecast of 9.3 percent growth. On a fiscal year-to-date basis, total revenue collections have decreased 1.2 percent through May 2020 which trails the annual forecast of 3.1 percent growth. Importantly, because the May 2020 revenues do not reflect the tax payments that were deferred to June 1, a more complete financial picture cannot be determined until the total amount of receipts for the May through June period are known. Based on early projections, the Secretary of Finance had estimated in April 2020 a total revenue loss of approximately \$1 billion for the last quarter of fiscal year 2020. However, based on updated projections as of late

June 2020, the Secretary of Finance indicated that the total revenue loss may be closer to \$500 million. Preliminary, unaudited financial results for the full fiscal year ended June 30, 2020, are scheduled to be released in mid-July 2020. The actual financial impact for the fiscal year 2020 may be higher or lower than such projections.

The only federal funding that is currently allowed to be used by the Commonwealth in offsetting revenue losses comes from the Families First Coronavirus Relief Act, which increased the federal match rate for Medicaid by 6.2 percent for each quarter during the declared public health emergency. It is expected that emergency will last for all four calendar quarters of 2020. The change in the federal match rate will free up moneys in the General Fund to offset the Commonwealth's revenue shortfall.

For the current biennium, the duration and extent of the impact of COVID-19 on the Commonwealth's revenues, expenses and cashflow are uncertain. Based on preliminary projections, the Secretary of Finance has stated that the Commonwealth could expect to realize decreases in General Fund revenues of at least \$1 billion in the first year and \$2 billion in the second year of the current biennium. The actual financial impact for the current biennium may be higher or lower than such projections.

Expenses. The Commonwealth anticipates that it will incur significant additional expenditures not currently budgeted to address the COVID-19 pandemic. The potential magnitude of such expenditures is not known; however, in addition to the federal disaster relief funds that the Commonwealth anticipates receiving, the Commonwealth has received approximately \$3.1 billion in funds from the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 to help cover these additional costs. While the CARES Act does not require that states distribute any of such funding to local governments with populations of less than 500,000 residents, Governor Northam has determined to allocate approximately \$645 million of the Commonwealth's share of the CARES Act funds to the cities and counties in Virginia (excluding Fairfax County, which received approximately \$200 million in CARES Act funding directly from the federal government based on the large size of the county's population). The Commonwealth disbursed such funds in early June 2020. Based on the current guidance from the federal government, CARES Act funds are required to be used to pay or reimburse costs incurred by state and local governments to address the pandemic rather than to replace tax revenues lost because of the related economic shutdown. Governor Northam has asked state agencies to submit proposals for the use of the remaining state share of \$1.8 billion. As of June 19, 2020, the Governor has allocated \$391 million for testing, contact tracing, personal and protective equipment, housing assistance and long-term care facility support.

In anticipation of a significant reduction in general fund revenues and cash balances beginning with the fiscal year ended June 30, 2020, and extending into the current biennium, the Governor initiated steps effective April 3, 2020, to reduce budgeted expenditures, including instituting a hiring freeze of all state classified and wage employees not exempted as essential and directing state agency heads to eliminate discretionary spending, prepare for budget cuts in the current biennium, reconsider funding for new initiatives and avoid new spending commitments.

The Virginia Constitution requires that the Commonwealth maintain a balanced budget. The Commonwealth began reducing in discretionary spending in fiscal year ended June 30, 2020, and, as set forth above, the Governor is taking further actions to conserve budgetary resources for the current biennium. The current Appropriation Act generally gives the Governor authority to withhold spending authority (i.e., make budgetary reductions) in an amount up to 15% of allocated funds.

Available Cash and Investments. Based on the most recent monthly analysis of the Commonwealth's cash and investments for the period ended May 31, 2020, the Office of the Comptroller reported that the Commonwealth had approximately \$5.2 billion in unrestricted cash available for immediate transfer into the General Fund and an additional approximately \$8.9 billion available in non-General Fund sources to support cash flow in other Commonwealth operating funds as necessary.

The Governor and the General Assembly are working together to address the fluid situation presented by the COVID-19 pandemic. Until there is more concrete information on the revenue effects, the Commonwealth's Secretary of Finance has stated that priority will be given to maintaining core services and effectuating new spending mandated under state and federal law.



**The financial and operating data concerning the Commonwealth contained in this Official Statement, and in particular Appendices B and C attached hereto, are as of the dates and for the periods indicated, which, except for the information drawn from the May Revenue Report, were prior to the COVID-19 outbreak. Other than as modified by the information in this Section (including the May Revenue Report), such financial and operating data have not been updated to reflect any potential impacts of the COVID-19 outbreak on the Commonwealth's general economic and financial condition.**

### **Payment Agreement**

The Transportation Board has entered into a Payment Agreement dated as of February 1, 2012 (the "Payment Agreement"), with the Treasury Board and the Secretary of Finance. The Payment Agreement provides, among other things, the procedures for requesting appropriations of funds sufficient to pay debt service on the GARVEE Notes and for the payment of such debt service.

The Payment Agreement requires the Transportation Board and the Treasury Board to use their best efforts to have (i) the Governor include a sufficient appropriation request in each biennial or any supplemental budget of the Commonwealth and (ii) the General Assembly appropriate the amount requested by the Governor. See Appendix A, *"Definitions and Summaries of the Indenture and the Payment Agreement."*

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## DEBT SERVICE REQUIREMENTS

The following table sets forth for FYs the amounts needed in each annual period for payment of principal of and interest on the Outstanding Notes. For a description of the debt service requirements of bonds that may be paid from the Transportation Trust Fund other than the GARVEE Notes, see the section “*Authorized, Issued, and Unissued Bonds Payable from the Transportation Trust Fund.*” Figures may not add due to rounding.

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Outstanding</u> <u>GARVEE Notes</u> <u>Debt Service</u>	<u>2020 Notes</u> <u>Principal</u>	<u>2020 Notes</u> <u>Interest</u>	<u>2020 Notes</u> <u>Debt Service</u>	<u>Total Fiscal</u> <u>Year</u> <u>Debt Service</u>
2021 <sup>(1)</sup>	\$ 120,406,350	\$	\$	\$	\$
2022	120,449,425				
2023	118,545,750				
2024	117,614,750				
2025	117,638,975				
2026	117,639,550				
2027	117,539,550				
2028	99,390,550				
2029	68,821,675				
2030	56,540,800				
2031	56,536,800				
2032	41,306,675				
2033	16,637,900				
2034	3,605,700				
2035	0				
2036	<u>0</u>				
Total	<u>\$1,172,674,450</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>

<sup>(1)</sup> Includes debt service payment made on September 15, 2020.

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## DEBT SERVICE COVERAGE

The following table compares annual debt service on the Outstanding Notes and the 2020 Notes to the Commonwealth's average annual Federal Highway Reimbursements over the period FFY 2008 through 2019. Historical Federal Highway Reimbursements may not be indicative of future Federal Highway Reimbursements. The resulting ratios are given solely for general information and actual results will be different. See the section “*Commonwealth Receipts of Federal Transportation Funds.*”

Fiscal Year Ending June 30	Outstanding GARVEE Notes Debt Service	2020 Notes Debt Service	Average Historical Federal Highway Reimbursements (FFYs 2008-2019)	Coverage Ratio
2021 <sup>(1)</sup>	\$ 120,406,350	\$	\$1,122,800,000	-
2022	120,449,425		\$1,122,800,000	-
2023	118,545,750		\$1,122,800,000	-
2024	117,614,750		\$1,122,800,000	-
2025	117,638,975		\$1,122,800,000	-
2026	117,639,550		\$1,122,800,000	-
2027	117,539,550		\$1,122,800,000	-
2028	99,390,550		\$1,122,800,000	-
2029	68,821,675		\$1,122,800,000	-
2030	56,540,800		\$1,122,800,000	-
2031	56,536,800		\$1,122,800,000	-
2032	41,306,675		\$1,122,800,000	-
2033	16,637,900		\$1,122,800,000	-
2034	3,605,700		\$1,122,800,000	-
2035	--		\$1,122,800,000	-
2036	--		\$1,122,800,000	-

Source: Virginia Department of Transportation

<sup>(1)</sup> Includes debt service payment made on September 15, 2020.

## INFORMATION CONCERNING THE FUNDING OF FEDERAL-AID HIGHWAYS

Revenues consist in part of the legally available portion of Federal Highway Reimbursements, generically described as federal aid revenues, received by the Commonwealth under Title 23 and appropriated by the General Assembly for the payment of GARVEE Notes. See also the subsection “*Sources of Payment and Security for the GARVEE Notes.*” The following information relates to the provisions of Title 23 and mechanisms, rules and practices which are relevant to the receipt of Federal Highway Reimbursements by the Commonwealth.

### The Federal-Aid Highway Program Generally

The Federal Aid Highway Program (the “FAHP”) is an “umbrella” term that encompasses most of the federal programs providing highway funds to the states. FHWA is the federal agency within the U.S. Department of Transportation responsible for administering the FAHP. The FAHP is funded from transportation user-related revenues deposited in the FHTF. The primary source of revenues in the FHTF is derived from the federal excise taxes on motor fuels. Other taxes include excise taxes on tires, trucks and trailers, and truck use taxes. The FAHP is a reimbursement program. Once projects are approved by FHWA and funds are obligated, the federal government makes payments to the states for costs as they are incurred on projects, which may include debt service on

obligations issued to finance a project. Federal reimbursements are typically matched with state and/or local funds. The maximum federal share is specified in the federal legislation authorizing the program. Most projects have an 80% base federal share, while interstate construction, highway safety and maintenance projects typically have been funded with a 90% base federal share.

Funding under the FAHP is provided to states through a multi-step funding cycle that includes: (i) multiyear authorization by Congress of the funding for various highway programs; (ii) apportionment and allocation of funds to the states each FFY according to statutory formulas or, for some funding categories through administrative action; (iii) obligation of funds, which is the federal government's legal commitment (or promise) to pay or reimburse states for the federal share of a project's eligible costs; (iv) appropriations acts by Congress specifying the amount of funds available for the year to liquidate obligations; (v) program implementation which covers the programming and authorization phases; and (vi) reimbursement by the federal government of the eligible project costs. Each of these steps is described in more detail under "*Federal Aid Funding Procedures*" below.

Title 23, United States Code, entitled "Highways," includes many of the laws that govern the FAHP. Generally, Title 23 embodies those substantive provisions of highway law that Congress considers to be central to the program. These provisions may be considered for amendment when and if FAHP is reauthorized. Reauthorization has tended to be evolutionary, with a moderate number of sections of Title 23 being amended or repealed during each reauthorization.

**The terms and conditions of participation in the FAHP as described herein are subject to change at the discretion of Congress. Changes in law, regulation or policy or a decrease in federal revenues may materially adversely affect the availability of Federal Highway Reimbursements. There can be no assurance that there will not be future changes in law, regulation, policy, or the availability of revenues at the federal level which may materially adversely affect the future availability of Federal Highway Reimbursements to pay debt service on the 2020 Notes and any other GARVEE Notes.**

## **Authorization**

**Generally.** The FAHP must be periodically reauthorized by Congress and has historically been authorized under multi-year authorizing legislation. [The most recent legislation, entitled the "Fixing America's Surface Transportation Act," or the FAST Act, enacted December 4, 2015, provides for funding of FAHP with highway user fees through FFY 2022, but with obligation authority through FFY 2020.]

**Lapsing of Authorization.** All federal programs must be authorized through enacted legislation that defines the programs and establishes maximum funding levels, and for most programs annual appropriations acts are necessary in order to create budget authority. Indeed, for most federal domestic discretionary programs, a lapsed authorization may have little or no effect on a program, so long as revenues are appropriated. For the FAHP, the consequences of lapsed authorization when Congress fails to enact reauthorization legislation are somewhat different. While Congress may pass interim legislation, the existence of contract authority and a dedicated revenue stream means that the FHWA usually can continue to provide Obligation Authority (as more particularly defined below, "OA") by administrative action.

In periods in which the previous authorizing legislation has expired and the future legislation has yet to be enacted, Congress and/or the FHWA have historically found ways to avoid disruptions to state highway programs and, more importantly, have been able to maintain the flow of federal revenues to states in each instance. Examples of the two mechanisms in particular that have kept federal revenues flowing include:

Access to Unobligated Balances: The 1987 Surface Transportation and Uniform Relocation Assistance Act expired on September 30, 1991 and the Intermodal Surface Transportation Efficiency Act ("ISTEA") was not enacted until December 18, 1991. The FHWA was able to act administratively to keep federal-aid funding flowing because states could use their unobligated balances to provide contract authority to use new OA.

Short-Term Authorization: ISTEA expired on September 30, 1997 and until approval of the Transportation Equity Act for the 21<sup>st</sup> Century ("TEA-21") on June 9, 1998, no new long-term authorization legislation was enacted. Despite the lack of long-term authorizing legislation, states were provided an upper limit on OA through

passage of an appropriations act plus access to their unobligated balances. On November 13, 1997, Congress passed the Surface Transportation Extension Act of 1997 (“STEA”), which provided a six-month authorization for highway funding and established a limit on the amount of new OA states could use at funding levels equal to about a quarter of FFY 1997 authorization levels. Since most states have unobligated balances of at least half their normal annual OA levels and an authorization act need not be in place for the FHWA to give states new OA, states were able to spend down prior unfunded federal apportionments (contract authority) with newly allocated OA. The lack of an enacted authorization act during this period did not pose a threat to the continued flow of revenues, because dedicated highway user fees continued to flow into the FHTF. Similarly, TEA-21 expired on September 30, 2003 and until approval of the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (“SAFETEA-LU”) on August 10, 2005, Congress passed several authorization extension acts that reauthorized the FAHP through May 31, 2005 and, through passage of a combination of continuing resolutions and appropriations bills, states were provided OA to ensure the continuation of the FAHP. Following the expiration of SAFETEA-LU on September 30, 2009, Congress passed several authorization extension acts that reauthorized the FAHP through June 30, 2012. The last multi-year authorization of the FAHP prior to the FAST Act was the Moving Ahead for Progress in the 21st Century Act (“MAP-21”), which provided funding through September 30, 2014. Following the end of MAP-21, Congress used a series of five short-term authorizations to fund the FAHP until passage of the FAST Act.

**Although measures have been taken by Congress and/or FHWA in the past, no assurance can be given that such measures would or could be taken in the future to maintain the flow of federal-aid funding upon termination of the current funding authorization.**

### **The Federal Highway Trust Fund**

The FHTF provides the primary funding for the FAHP. Funded by a collection of federally-imposed motor vehicle user fees, primarily fuel taxes, the FHTF is a fund established by law to hold dedicated highway-user revenues that are used for reimbursement of a state's cost of eligible transportation projects (which may include debt service on obligations issued to finance a federal-aid project), including highway projects.

The FHTF is composed of two accounts: the Highway Account, which funds highway and intermodal programs, and the Mass Transit Account. The Highway Account receives approximately 84% of gasoline tax revenues and 88% of diesel fuel revenues, with the remaining share of such revenues deposited in the Mass Transit Account. The FHTF is required under current federal law to maintain a positive balance to ensure that prior commitments for the distribution of federal revenues can be met.

Federal gasoline excise taxes are the largest revenue source for the FHTF. The majority of these tax revenues, including 15.44 cents per gallon out of the current 18.4 cents per gallon tax on gasoline and 21.44 cents per gallon out of the current 24.4 cents per gallon tax on diesel, go to the Highway Account, with the remainder deposited to the Mass Transit Account.

At least since 2007, the Congressional Budget Office (“CBO”) has, from time to time, reported or testified that if Congress adhered to the highway and safety spending levels which it had authorized, absent other measures, the Highway Account of the FHTF would go into deficit within a year or two after such report or testimony was presented. As part of the testimony provided on May 6, 2014 on the status of the FHTF and options for financing highway spending, CBO stated that for several decades, the balances in the Highway Account were relatively stable or growing, but since 2001, receipts have consistently fallen below expenditures.

The table below sets forth the balances in the Highway Account from FFY 2011 through FFY 2020:

**HIGHWAY ACCOUNT BALANCE**  
**Federal Fiscal Years 2011 through 2020**  
(in Billions)

Federal Fiscal Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>(1)</sup>
<b>Highway Account Opening Balance</b>	\$20.743	\$14.323	\$9.731	\$3.771	\$11.376	\$9.040	\$51.436	\$41.443	\$32.605	\$24.652
<b>Receipts</b>										
Net Tax Receipts	31.961	35.143	31.800	34.066	35.740	36.062	35.699	37.265	38.267	19.973
Interest Income	0.011	0.005	0.005	0.003	0.001	0.092	0.281	0.543	0.621	0.137
Other Receipts	0.038	2.493 <sup>(2)</sup>	5.899 <sup>(3)</sup>	18.435 <sup>(4)</sup>	6.092 <sup>(5)</sup>	52.119 <sup>(6)</sup>	0.128 <sup>(7)</sup>	0.120 <sup>(8)</sup>	0.098	0.101
Total Receipts	32.010	37.641	37.704	52.504	41.834	88.274	36.108	37.928	38.985	20.211
<b>Transfers</b>										
To Mass Transit Account	1.140	1.103	0.796	1.159	1.246	1.170	1.175	1.700	1.401	1.215
From Mass Transit Account	0.034	0.020	0.050	0.051	0.029	0.078	0.052	0.066	0.069	0.047
<b>Outlays</b>	37.325	41.150	42.917	43.791	42.952	44.786	44.977	45.132	45.607	24.222
<b>Closing Balance</b>	\$14.323	\$9.731	\$3.771	\$11.376	\$9.040	\$51.436	\$41.443	\$32.605	\$24.652	\$19.473

[Source: Federal Highway Administration Table FE-1 as of April 2020. Totals may not sum due to rounding.]

(1) Though April 30, 2020.]

(2) Includes a transfer of \$2.4 billion to the Highway Account from the Leaking Underground Storage Tank Trust Fund pursuant to P.L. 112-141.

(3) Includes a transfer of \$6.2 billion to the Highway Account from the General Fund pursuant to P.L. 112-141, of which \$316.2 million was sequestered.

(4) Includes transfers of \$10.4 billion to the Highway Account from the General Fund pursuant to P.L. 112-141, of which \$748.8 million was sequestered, \$7.765 billion to the Highway Account from the General Fund and \$1.0 billion to the Highway Account from the Leaking Underground Storage Tank Trust Fund pursuant to P.L. 113-159.

(5) Includes a transfer of \$6.068 billion to the Highway Account from the General Fund pursuant to P.L. 114-41.

(6) Includes transfers of \$51.9 billion to the Highway Account from the General Fund pursuant to P.L. 114-94 and \$100.0 million to the Highway Account from the Leaking Underground Storage Tank Trust Fund pursuant to P.L. 114-94.

(7) Includes a transfer of \$100 million (reduced to \$93,100,000 by a sequester) to the Highway Account from the Leaking Underground Storage Tank Trust Fund pursuant to Section 31203 of P.L. 114-94.

(8) Includes a transfer of \$100 million (reduced to \$93,100,000 by a sequester) to the Highway Account from the Leaking Underground Storage Tank Trust Fund pursuant to Section 31203 of P.L. 114-94.

Statutory authority (i) to impose the taxes that are dedicated to the FHTF; (ii) to place the revenues resulting from those taxes in the FHTF; and (iii) to expend moneys from the FHTF all have expiration dates which must be extended by Congress periodically. The life of the FHTF has been extended several times since its inception, most recently by the FAST Act, which (i) reauthorized imposing most taxes dedicated to the FHTF through September 30, 2022, (ii) allocated the resulting revenues to the FHTF, and (iii) extended authority to expend funds from the Highway Account of the FHTF for programs under FAST Act and previous authorization acts through September 30, 2020.

The CBO, in its Budget and Economic Outlook: 2019 to 2029, dated January 2019, reports that since 2008, spending exceeded the FHTF's revenues by a total of \$115 billion. Since 2008, Congress has authorized a series of transfers to the FHTF to avoid delaying payments to state and local governments. The FAST Act authorized the transfer of \$70 billion, largely from the general fund of the United States Treasury, to the FHTF in December 2015 as the FHTF fund balance neared exhaustion. Including that amount, transfers into the FHTF since 2008 have totaled about \$144 billion.

Spending from the FHTF is projected to total \$56.481 billion in FFY 2020, whereas revenues and interest credited to the FHTF are expected total \$43.615 billion. The FAST Act extended the taxes that are credited to the FHTF through September 30, 2022. The primary source of funds in the FHTF is federal excise taxes, 40% of which come from taxes on the consumption of motor fuels and retail sales of trucks. Annual receipts from these taxes are projected to decrease slightly over the 10-year period from 2018 to 2028, averaging an annual decline of 0.1% but remaining close to \$40 billion per year. The slight decline in highway revenues is the net effect of falling receipts from taxes on gasoline and rising receipts from taxes on diesel fuel and trucks. Gasoline consumption is expected to

decline because improved fuel economy (spurred by increases in the federal government's fuel-economy standards) is expected to more than offset the increase in the number of per capital miles driven due to population growth. Increased fuel economy is also expected to reduce the consumption of diesel fuel over the 10-year period. However, from 2018 to 2021, the decrease in diesel consumption due to fuel economy is projected to be offset by an increase in the number of total miles driven by diesel-powered trucks as the economy expands. After 2021, diesel consumption is expected to decline as fuel economy continues to improve.

[In the latest baseline projections prepared in March 2020, CBO predicts that, assuming that the taxes are extended by Congress beyond that date and that obligations paid from the FHTF increase at the rate of inflation, the balance in the Mass Transit account of the FHTF will be exhausted in Federal Fiscal Year 2021, and the balance in the Highway Account of the FHTF will be able to meet all obligations through Federal Fiscal Year 2021 but will be exhausted in Federal Fiscal Year 2022. By 2030, the cumulative shortfall in the FHTF would reach \$189 billion. These projections were prepared in March 2020, before the current public health emergency caused by the coronavirus began. The net effect that the crisis will have on that shortfall is unclear. The extent of the effect of the COVID-19 pandemic on federal spending and specifically, FHWA appropriations, if any, cannot be known at this point. Under current federal law, a positive balance is required to be maintained in the FHTF to ensure that prior commitments for distribution of federal revenues can be met. Unless Congress enacts a measure to address revenue generation for the FHTF, the FHTF is expected to face another revenue shortfall when the FAST Act expires, which may impact the availability of federal transportation funds to pay debt service on the 2020 Notes.]

**Various proposals are being considered to address the FHTF's future funding, including an increase in fuel taxes, a variety of new taxes and other funding sources for the FHTF. There can be no assurance that Congress will enact any of these proposals or if any of the proposals are enacted that they will provide sufficient funding to eliminate projected FHTF deficits.**

The FHWA operates under contract authority authorized by the FAST Act, and accordingly, a lapse in annual appropriations does not materially disrupt operations. Thus, the failure of the Congress to enact an annual appropriation prior to the start of a FFY, which would result in a "government shutdown," typically does not impact FHWA operations. Further, FHWA has sufficient liquidated cash to continue operations in the event of a lapse in annual appropriations. However, any lapse in annual appropriations or a partial-year budget can reduce the amount of Obligation Authority that would otherwise be made available to the Commonwealth. See the subsections "*Federal Aid Funding Procedures – Obligation*" and "*Federal Aid Funding Procedures – Obligation Ceiling*."

The FHTF was not among the discretionary funding sources affected by the federal government shutdown during the period of December 22, 2018 through January 25, 2019. In the absence of an appropriations act or a continuing resolution, the overall limitation on obligations was based on the levels authorized in the FAST Act. As a result, FHWA did not shut down and there was no lapse in FAHP reimbursements to the states. VDOT received all FAHP reimbursements requested during this period.

The United States Treasury Offset Program (the "TOP") is administered pursuant to the Debt Collection Improvement Act of 1996 ("DCIA"), which requires the Department of the Treasury and other disbursing agencies to collect delinquent debts owed to the federal government. Under the DCIA, if a "person" is in debt to the federal government, the federal agency payments may be offset through the TOP by the amount of the debt owed and up to the amount of the scheduled payment. "Person" is defined to include a state or local government. Administrative offset under the DCIA is precluded only when another law specifically prohibits the offset. In the last five years, VDOT had five offset actions totaling \$116,425.20 related to civil penalties. Subsequent to the offset action, VDOT recovered the amounts. VDOT has a separate taxpayer identification number from other state departments and agencies. It is VDOT's understanding that the United States Treasury only offsets amounts owed to the federal government from entities with the same taxpayer identification number. In addition, the Administrator of FHWA is authorized to withhold payment of federal funds to a state for a project if the Administrator of FHWA determines that the state has violated or failed to comply with federal laws or regulations with respect to that project.

### **Federal Aid Funding Procedures**

The FAHP continues to enable the construction of an extensive national transportation system through reimbursement of a large percentage of state expenditures for approved highway projects. The FAHP is unusual among federal programs in that:

- (a) the FAHP is funded by dedicated revenues from user-tax sources deposited in a special trust fund, the FHTF;
- (b) the contract authority of the FHWA has historically been established by a multi-year authorization act rather than through annual appropriation acts; and
- (c) contract authority is not at risk during the annual appropriations process (as budget authority is in most other federal programs), although an appropriations act is required in order to liquidate obligations.

The following summarizes the major steps in funding the FAHP.

**Authorization.** The first and most important step in funding the FAHP is the development and enactment of authorizing legislation. Authorizing legislation for federal highways began with the Federal Aid Road Act of 1916 and the Federal Highway Act of 1921. These acts provided the foundation for the FAHP as it exists today. Since that time, the FAHP, as then in existence, has been continued or renewed through the passage of multi-year authorization acts. Since 1978, Congress has passed highway legislation as part of larger, more comprehensive, multi-year (i.e. four or more years) surface transportation acts. There is no guarantee, however, that reauthorization of the FAHP will continue to occur on a multi-year basis. The current reauthorization under the FAST Act is for the period ending September 30, 2020.

The authorization act not only shapes and defines programs, but also sets limits (authorizations) on the funding for programs and includes provisions related to the operation of the FHTF.

Once Congress has established authorizations, the next step involves how funds are made available to states. Typically, federal programs operate using appropriated budget authority, which means that funds, although authorized, are not available until passage of an appropriations act. However, most programs within the FAHP do not require this two-step process. Through what is termed “contract authority” (a special type of budget authority), authorized amounts become available for obligation according to the provisions of the authorization act without further legislative action. For the FAHP, funds authorized for a FFY are available for distribution through apportionments or allocations. The use of contract authority gives the states advance notice of the level of federal funding at the time an authorization act is enacted, eliminating much of the uncertainty associated with the authorization-appropriation sequence.

The existence of dedicated revenues in the FHTF and of multi-year contract authorizations are designed to provide a predictable and uninterrupted flow of reimbursements to the states. The risk of contract authority lapsing between authorizing acts has historically been limited, since sufficient unobligated balances generally exist that can be used by the states, with the approval of Congress, to cover gaps in funding between multi-year reauthorization acts, but there can be no assurance that federal authorizations will not lapse. See the subsection “*Authorization – Lapsing of Authorization.*”

**Apportionment and Allocations.** For most components of the FAHP, the authorization act sets the distribution of contract authority to be apportioned and/or allocated to the states. The authorized amount for a given FFY is distributed to the states through apportionments and allocations.

**Apportionments.** The distribution of funds using a formula provided in law is called an apportionment. Most federal-aid highway funds are distributed to states through apportionments. Each FFY, the FHWA has responsibility for apportioning authorized funding for the various highway programs among the states according to formulas established in the authorizing statute. Annual apportionments are generally made on the first day of the FFY (which is October 1). VDOT strives to use the oldest apportionment available when obligating funds to prevent the lapsing of apportionment.

**Allocations.** Some categories of funds do not have a legislatively mandated distribution formula. In most cases, allocated funds are divided among states with qualifying projects applying general administrative criteria provided in the law.



Federal-aid highway apportionments are available to states for use for more than one year. Their availability does not terminate at the end of the FFY, as is the case with most other federal programs. In general, apportionments are available for three years plus the year that they are apportioned. Consequently, when new apportionments or allocations are made, the amounts are added to a state's carryover apportionments from the previous year. Should a state fail to obligate a year's apportionments within the period of availability (usually a total of four years) specified for a given program, the funds will lapse.

**Obligation.** Obligation is the legal commitment (or promise) of the federal government to pay, through reimbursement to a state, the federal share of an approved project's eligible costs, which may include debt service on obligations issued to finance a project. This process is important to the states because it allows states to award contracts with assurance that the federal government will reimburse its share of incurred costs. Once an obligation is made, the federal government is to reimburse the states when bills or payments become due. However, Congress places a restriction or "ceiling" on the amount of federal assistance that may be promised (obligated) during a specific time period. See "*Obligation Ceiling*" below.

Once Congress establishes an overall obligation limitation, FHWA distributes obligation authority ("OA") to states proportionately based on each state's share of apportioned and allocated revenues. The actual ratio of OA to apportionment and allocations may vary from state to state, since some federal-aid programs are exempt from the obligation limitation. During the FFY, states submit requests to FHWA to obligate funds, representing the federal share of specific projects. As a state obligates funds, its balance of OA is reduced. A state's OA (unlike its apportionments and allocations of authorized funding) must be used before the end of the FFY for which it is made available. If it is not used, the unused OA will be redistributed to other states to ensure that the total limitation nationwide will be used. A state may receive additional OA through a redistribution process each year in August that reallocates OA from states or programs unable to obligate fully their share to other states that are able to obligate more than their initial share (this process is known as "August Redistribution"). The Commonwealth typically uses all of its OA in each FFY and typically receives additional OA that has been redistributed by FHWA. See "*Commonwealth Receipts of Federal Transportation Funds*" for Virginia's OA, apportionments and total Federal Aid Revenues received in prior FFYs.

**Obligation Ceiling.** Most of the FAHP does not receive budget authority through appropriations acts as do most other federal programs. Congressional appropriations committees use Obligation Authority as a means of balancing the annual level of highway spending with other federal budget priorities. Thus, Congress may place a restriction or "ceiling" on the amount of federal assistance that may be obligated during a specified time period. The obligation limitation is the amount of authorized funding that Congress allows states to obligate in an individual year. This is a statutory budgetary control that does not affect the apportionment or allocation of funds. Rather, it controls the rate at which these funds can be used, and, in effect, can limit the amount of funds that can be used. See the subsection "*The Federal Highway Trust Fund*."

Although a ceiling on obligations restricts how much funding may be used in a FFY, generally a state has flexibility within the overall limitation to transfer among certain apportioned highway programs. Certain sums may be used only for special purposes once they are apportioned to the states. Generally, the unobligated balance of apportionments or allocations that a state has remaining at the end of any FFY is carried forward into the subsequent FFY and is available for use, contingent upon the availability of Obligation Authority issued in each year. Generally, if a state does not obligate a particular year's funding within the period of availability, the authority to obligate any remaining amount lapses. VDOT has been successful in obligating its full amount of Obligation Authority and the additional Obligation Authority made available to the state through the annual process of redistributing federal funds from those states and programs that are unable to utilize all of their obligation authority.

**Rescission of Unobligated Balances.** Congress took ten separate actions to reduce previously authorized spending levels, between FFYs 2006 through 2011 by issuing rescissions. Additionally, Congress took action to rescind, on June 30, 2017, \$857 million of unobligated balances of federal-aid highway funds apportioned to the states pursuant to the Department of Transportation Appropriations Act, 2017, title I of division K, Public Law 115-31. Each such action rescinded unobligated balances of apportionments among the states on a proportional basis based upon each state's apportionment exclusive of certain identified funds or programs. The aggregate amount for these rescissions for the Commonwealth was \$461.93 million, which was applied to reduce any unobligated apportionment balances for prior years. Section 1438 of the FAST Act had mandated that on July 1, 2020, \$7.569

billion in unobligated balances of certain federal highway funds apportioned to the states and the District of Columbia be rescinded. However, legislation enacted in November 2019 repealed the scheduled rescission. Future rescissions are possible and may have an adverse effect on the Commonwealth and its highway program, but the Commonwealth bases its budget upon its expected Obligation Authority and Federal Highway Reimbursements, not upon expected apportionments. Although rescissions could be large enough to impact the Commonwealth's use of Obligation Authority, to date they have not. If Congress continues to require rescissions, the balances of unobligated apportionment for those federal programs that would support the 2020 Project may be reduced. See the section "*Sources of Payment and Security for the GARVEE Notes.*"

**Highway Program Implementation.** To receive federal reimbursements for transportation projects, states are required to develop long-range transportation plans that are based on realistic projections of state and federal funding. Projects are not eligible for federal reimbursements unless they are either directly identified in a long-range plan or consistent with policies and objectives identified in long-range plans and are included in the four-year Statewide Transportation Improvement Program ("STIP") that lists all projects proposed for financing in that four-year period. The STIP must be approved by FHWA and Federal Transit Administration ("FTA").

States are required to follow federal fiscal management procedures as they implement projects that are included in the STIP. These fiscal management processes ensure that the process is managed efficiently from project authorization to actual payment of FHWA reimbursements to the state. Further, states are required to use a detailed accounting system to track project expenditures and reimbursements. In addition, a federal system tracks payments to states.

Fiscal constraint in the Federal Aid Highway Program is a requirement of joint FHWA/FTA regulations for Statewide and Metropolitan Transportation Planning at 23 CFR 450. Fiscal constraint requires that the STIP only include projects for which funding is committed or reasonably expected to be available. VDOT implements this requirement through the annual adoption by the Transportation Board of a financially balanced SYIP, which provides the basis for the STIP. The SYIP summarizes current estimated costs for all projects and all phases for the next six years. Total available resources are based on best estimates of Federal Aid Revenues and state revenues. Within the STIP for Federal Fiscal Years 2018 through 2021, as well as in the draft STIP for Federal Fiscal Years 2021 through 2024, debt service on the Series 2020 Notes will be included as an anticipated expenditure supported by eligible federal aid highway reimbursements.

States may request FHWA approval for eligible projects either through the traditional process or through the Advance Construction procedure as discussed below:

**Traditional Approach.** Under the traditional highway funding approach, FHWA approves the full federal share of funding for a project at the beginning of the project, concurrent with project authorization. The first step in the fiscal management process begins when a state requests authorization to use federal funds on a project. The project sponsor submits plans, specifications and estimates ("PS&Es") for a project to FHWA, and requests that FHWA approve the use of federal funding for the appropriate federal share of the project. The project must be in the STIP and PS&Es must identify the category or categories of federal funding that will be used.

FHWA evaluates the PS&Es to ensure that the project is eligible for federal funding and meets a variety of federal requirements. Provided all requirements are satisfied, FHWA authorizes federal participation in the project, and obligates the federal share of project costs. By obligating the funds, FHWA makes a commitment to reimburse the state for the federal share of eligible project costs. It sets aside the appropriate amount of the state's OA and also sets aside an equivalent amount of apportionments by program. Accordingly, the state must have sufficient OA to cover the level of federal participation it requests.

Once authorization for a project has been obtained, the state advertises the project and receives bids. The state awards the contract to the lowest responsive bidder and submits a modified agreement to FHWA requesting any necessary adjustments to federal funding to reflect the actual bid amount. The project agreement identifies the funds that are estimated to be expended by the state and the amount that will be reimbursed by the FHWA.

**Virginia's Stewardship and Oversight Agreement.** While the FHWA is charged with administering the Federal-Aid Highway Program, the Virginia State Division of the FHWA has entered into a Stewardship and

Oversight Agreement with VDOT whereby VDOT may assume certain project approval authority. The latest agreement is dated June 2, 2015. Under certain conditions, FHWA has delegated to VDOT authority for design activities, PS&E approval, concurrence in award, construction activities and other related actions that FHWA typically approves under Title 23.

***Advance Construction Approach.*** FHWA has implemented several fiscal management techniques that provide states additional flexibility in managing their Obligation Authority and cash flow. Advance construction (“Advance Construction” or “AC”) and partial conversion of AC are two key techniques that facilitate federal-aid project funding.

The AC approach for authorizing projects allows states to finance projects eligible for federal aid without obligating the full federal share of costs at the beginning of the project. This allows states to begin a project before accumulating all of the Obligation Authority needed to cover the federal share of the project. Similar to the traditional approach, the state submits PS&Es to FHWA and requests project authorization. Under AC, however, FHWA is asked to authorize the project without obligating some or all of the federal funds planned to pay for the project. The state will provide the up-front financing for the project and then at a later date "convert" the AC balance and obligate the full federal share of the project costs, when sufficient Obligation Authority is available. At the time of conversion, the state can be reimbursed for the federal share of costs incurred up to the point of conversion.

Under the partial conversion of AC approach, the state converts, obligates, and receives reimbursement for only a portion of its funding of an AC project in a given year. This removes any requirement to wait until the full amount of Obligation Authority for the project is available. The state therefore can obligate varying amounts for the project's eligible cost in each year, depending on how much of the state's Obligation Authority is available. Using the technique to partially convert the federal share makes bond and note financing more viable and federal-aid funds available to support a greater number of projects. The National Highway System Designation Act of 1995 (the “NHS Act”) provided additional flexibility in the use of AC by allowing partial conversion of AC as implemented through a Federal Register Notice dated July 19, 1995.

Under the FAHP, as projects are approved by FHWA, the aggregate dollar amount of each contract relating thereto will be obligated against the remaining annual amount of Obligation Authority available to the state. The state will then pay the amounts owed under each contract as work progresses and receive reimbursement from the federal government for the federal share of the total costs. The aggregate amount of reimbursement received by the state in any year is not necessarily equal to the state's apportionment for such year. Many projects and contracts extend over a number of years which means the aggregate amount made available to the state in any one year, if fully obligated, may be received as reimbursement over a longer period of time relating to the actual pace of construction. The Commonwealth expects to have sufficient projects which will qualify to allow it to access all Federal Highway Reimbursements made available to it.

***Reimbursement.*** The FAHP is a reimbursement program. As work progresses on a federal-aid highway project, a state pays the contractor for completed work from available state funds. The state electronically transmits vouchers for the federal share of completed work and certifies to FHWA that the claims for payment are in accordance with the terms of the applicable project agreements and state and federal laws or regulations. After review and approval by FHWA Division office, payment is scheduled for the date requested by the state. Payment is transferred directly from the United States Treasury to the state's account at a financial institution by wire transfer, and is generally scheduled to be made within two days of the submission of the state's electronic bill.

### **Special Federal Provisions Relating to Debt-Financed Projects**

The NHS Act made several changes affecting the financing of federal-aid highway projects, including AC procedures and payments to states for debt financing.

Section 311 of the NHS Act significantly expanded the eligibility of bond, notes and other debt instrument financing costs for federal-aid reimbursement. This change to the FAHP was codified into permanent highway law as an amendment to Section 122 of Title 23 of the United States Code. Under Section 122, various debt-related costs are eligible for reimbursement, including principal and interest payments, issuance costs, insurance, and other costs incidental to a financing.

FHWA has issued guidelines for debt-financed projects. Key provisions of these guidelines are as follows:

- The project must be approved as a federal-aid, debt-financed (bond, certificate, note or other debt instrument) project to receive payments for eligible debt-related costs under Section 122. Once a project is selected for debt financing, the project is submitted to FHWA for approval as an AC project under Section 115 of Title 23. The AC designation ensures the project follows federal-aid procedures and preserves the eligibility to reimburse debt-related costs through future federal-aid fund obligations.
- Debt-financed projects are subject to requirements of the Federal Clean Air Act and federal air quality conformity requirements.
- At the time the project agreement is signed, a state may elect to seek reimbursement for debt service and/or related issuance costs in lieu of reimbursement for construction costs. If a state elects to receive debt service reimbursements, a debt service schedule will be included in the project agreement. If multiple projects are funded with proceeds of a debt issue, each project will be assigned a prorated share of debt-related costs.
- To comply with the intent of the fiscally constrained planning process, the federal share of debt-related costs (e.g., interest and principal payments, associated issuance costs, and on-going debt servicing expenses) anticipated to be reimbursed with federal-aid funds over the life of the debt obligations should be designated as AC. The planned amount of federal-aid reimbursements (AC conversion) should be included in the STIP, in accordance with FHWA procedures.
- Periodic debt service payments (federal-aid reimbursements) on the debt obligations would represent partial conversions of designated AC amounts to federal aid. A state can obligate such federal aid annually over the life of the permanent financing or a state can make the conversion in one lump sum upon project completion to help take out construction financing. A state would follow the normal procedures for conversion of an AC project.
- A state may seek federal-aid reimbursements for eligible debt-related costs as these costs are incurred. Issuance costs, debt service payments, and incidental costs represent costs incurred that may be reimbursed with federal-aid funds to the extent such costs are deemed eligible.
- A state may make arrangements with FHWA regarding the procedures under which it would submit a billing to FHWA for debt-related costs. A request for debt service payment can be timed so that reimbursements can be received shortly before the debt service payment date.
- A state may designate a trustee or other depository to receive federal-aid debt service payments directly from FHWA.

Once the project agreement with respect to each GARVEE Note project becomes a part of the Federal Aid Agreement, it will be a “debt-financed project.”

## COMMONWEALTH RECEIPTS OF FEDERAL TRANSPORTATION FUNDS

The following table identifies prior and projected Apportionments, Obligation Authority, and Receipts of Federal Highway Aid Revenues by VDOT from FFY 2008 through FFY 2019. The ability to pay the 2020 Notes and other GARVEE Notes will depend upon the amount of actual funding provided to the Commonwealth under the FAHP, the legal availability thereof and the Commonwealth's ability to use such funding.

### FEDERAL AID REVENUES, APPORTIONMENTS, OBLIGATION AUTHORITY AND RECEIPTS FOR THE VIRGINIA DEPARTMENT OF TRANSPORTATION

#### Under SAFETEA-LU, MAP-21 and FAST ACT Federal Fiscal Years 2008 Through 2019

<u>Federal Fiscal Year</u>	<u>Apportionments (in millions)</u>	<u>Obligation Authority (in millions)</u>	<u>Federal Reimbursements Actual Receipts<sup>(1)</sup> (in millions)</u>
2008	\$940	\$974	\$811
2009	1,648	1,653	809
2010	1,056	938	944
2011	1,056	974	1,110
2012	986	934	1,360
2013	981	941	1,475
2014	982	941	1,269
2015	982	925	1,273
2016	1,032	1,012	1,036
2017	1,047	985	1,173
2018	1,071	992	1,039
2019	1,099	992	1,172
Totals 2008 – 2019 <sup>(1)</sup>	<u>\$12,880</u>	<u>\$12,261</u>	<u>\$13,473</u>
Annual Average 2008 – 2019 <sup>(1)</sup>	<u>\$1,073</u>	<u>\$1,022</u>	<u>\$1,123</u>

Source: Virginia Department of Transportation.

<sup>(1)</sup> Actual receipts column may include amounts from prior years and does include amounts which are not eligible and do not constitute Revenues. The amounts listed in each of the columns herein are after taking into account rescissions of unobligated balances incurred to date. See the subsection "Information Concerning the Funding of Federal-Aid Highways – Federal Aid Funding Procedures – Rescission of Unobligated Balances." Actual receipt amounts differ from those reported in the Transportation Board's Annual Report, as hereinafter defined, as a result of adjustments and recalculation that occurred after the Annual Report was prepared.

## TRANSPORTATION TRUST FUND

### General

The Transportation Trust Fund was established by the General Assembly in Chapters 11, 12, 13 and 15 of the Acts of the Assembly, 1986 Special Session (the "1986 Special Session Acts"), as a special non-reverting fund administered and allocated by the Transportation Board for the purpose of increased funding for construction and other capital needs of state highways, airports, mass transit and ports. Chapter 1230 of the Acts of the General Assembly of the Commonwealth of Virginia 2020 Regular Session ("Chapter 1230") enacts numerous structural changes to the transportation funding system in the Commonwealth. Most transportation-related revenues are directed to a new a special non-reverting fund known as the Commonwealth Transportation Fund, and the distribution of revenues is streamlined, based on codified formulas, to sub-funds established to meet the varying transportation needs and different modes of transportation in the Commonwealth. The Transportation Trust Fund

continues to be funded primarily from the initial base of revenues specified by the 1986 Special Session Acts, as amended, including the retail sales and use tax, motor fuels tax and motor vehicle related taxes and fees. Chapter 1230 makes changes and adds to these revenue sources. See the subsection below “Sources of Revenues.”

### **Chapter 1230 and the Commonwealth Transportation Fund**

The Commonwealth Transportation Fund would serve as the fund to which all transportation revenues are deposited and then distributed to programs and funds. These transportation revenues include: (i) motor vehicles fuels taxes and road taxes for diesel fuel; (ii) vehicle registration fees; (iii) highway use fee; (iv) 0.5% statewide sales and use tax; (v) 0.3% statewide sale and use tax for transportation; (vi) 4.15% percent motor vehicles sales and use tax; (vii) motor vehicle rental tax (10 percent of gross proceeds from rentals for most passenger vehicles); (viii) \$0.03 of the \$0.25 per \$100 of assessed value of the statewide recordation tax; (ix) tax on liquid alternative fuel, set at the rate for gasoline; (x) International Registration Plan fees; and (xi) one-third of the revenue from insurance premium taxes. See the subsection below “Sources of Revenues.”

Chapter 1230 also amends the allocation of funds. Before funds are distributed between the Transportation Trust Fund and the Highway Maintenance and Operating Fund (“HMO Fund”), (i) \$40 million annually will be deposited into the Route 58 Corridor Development Fund; (ii) \$40 million annually will be deposited into the Northern Virginia Transportation District Fund; and (iii) \$80 million annually (as adjusted annually based on changes in consumer price index for urban consumers) will be deposited into the Special Structure Fund. Enactment Clause 11 of Chapter 1230 provides the Commonwealth Transportation Board the ability to take actions deemed necessary in fiscal years 2021, 2022, and 2023 to ensure funds for modal programs and the highway maintenance and operating fund are at least equal to the amounts provided for in the six-year financial plan for the Commonwealth Transportation Fund as in effect on January 1, 2020.

Toll revenue and concession payments to the Commonwealth under the Public-Private Transportation Act of 1995 also would be deposited to the Commonwealth Transportation Fund and allocated to the Transportation Trust Fund (for defined purposes and not available for further distribution). Interest, dividends, and appreciation accrued to the Transportation Trust Fund or the HMO Fund also would be allocated to the Commonwealth Transportation Fund and distributed two-thirds to the Virginia Transportation Infrastructure Bank and one-third to the Transportation Partnership Opportunity Fund.

The remaining funds in the Commonwealth Transportation Fund are allocated 51% to the HMO Fund and 49% to the Transportation Trust Fund. Chapter 1230 directs the following distribution of funds from the Transportation Trust Fund: (i) 53% for construction programs; (ii) 23% to the Commonwealth Mass Transit Fund; (iii) 7.5% to the Commonwealth Rail Fund; (iv) 2.5% to the Commonwealth Port Fund; (v) 1.5% to the Commonwealth Aviation Fund; (vi) 1% to the Commonwealth Space Flight Fund; (vii) 10.5% to the Priority Transportation Fund; and (viii) 1% to the Department of Motor Vehicles. Enactment Clause 11 of Chapter 1230 also allows the Commonwealth Transportation Board to take actions deemed necessary in fiscal years 2021, 2022, and 2023 to ensure appropriate coverage ratios for any outstanding debt backed by the Transportation Trust Fund.

The investment of money in the Transportation Trust Fund is administered by the State Treasurer under guidelines adopted by the Transportation Board. The Transportation Board has adopted the same guidelines as the Treasury Board for the investment of public funds.

**The Transportation Board makes no representation (i) that the General Assembly will maintain the Transportation Trust Fund or (ii) that the General Assembly will not repeal or materially modify Chapter 1230 or any other legislation affecting the Transportation Trust Fund. Without limiting the generality of the foregoing, the provisions of Chapter 1230 that generate additional revenue for transportation purposes, including revenues for deposit in the Transportation Trust Fund, shall expire on December 31 of any year in which the General Assembly appropriates any of such revenues for any non-transportation-related purpose.**

### **Highway Maintenance and Operating Fund**

The Highway Maintenance and Operating Fund is established in the Code of Virginia to address the highway maintenance and operating needs of VDOT. The HMO Fund was initially created in 1987, separating funding for

this purpose from funds meant for Highway Construction. Since this time, the revenue sources dedicated to the HMO Fund have been updated to provide for additional funding to meet the highway maintenance and operating needs. Chapter 1230 dedicates a significant share of the Commonwealth Transportation Fund to the HMO Fund. Enactment Clause 11 allows the Commonwealth Transportation Board the ability to take actions deemed necessary in fiscal years 2021, 2022, and 2023 to ensure funds for modal programs and the highway maintenance and operating fund are at least equal to the amounts provided for in the six-year financial plan for the Commonwealth Transportation Fund as in effect on January 1, 2020. Beginning in fiscal year 2024, the share dedicated to the HMO Fund is 51 percent.

The construction funds available for allocation in the Six-Year Improvement Program for Fiscal Years 2020 through 2025 adopted by the Transportation Board in June 2019 (the "Current SYIP") were reduced by \$133.8 million in Fiscal Year 2020 to provide the revenues needed to meet the obligations of the HMO Fund which includes the maintenance and operations of Virginia's highways.

The Transportation Board and VDOT are currently reviewing the impact of COVID-19 on transportation revenues. Chapters 1283 and 1289 of the 2020 Acts of Assembly (Appropriation Act) provided that notwithstanding section 33.2-214 of the Code of Virginia, the Current SYIP, as amended, shall remain in effect through June 30, 2021, or until a new SYIP is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 pandemic.

The Transportation Board makes no representation that the General Assembly will maintain the HMO Fund. Without limiting the generality of the foregoing, the provisions of Chapter 1230 that generate additional revenue for transportation purposes, including revenues for deposit in the HMO Fund, shall expire on December 31 of any year in which the General Assembly appropriates any of such revenues for any non-transportation-related purpose.

#### **Sunset Provision**

The provisions of Chapter 1230 that generate additional revenue for transportation purposes, expire on December 31 of any year in which the General Assembly appropriates any of such revenues for any non-transportation-related purpose (the "Sunset Provisions").

The General Assembly has from time to time made appropriations of portions of such additional revenue for non-transportation-related purposes, which would have activated the Sunset Provisions had the General Assembly not also enacted a savings clause to override the Sunset Provisions (a "Savings Clause").

No assurance can be given that the General Assembly will not activate the Sunset Provisions in future appropriation acts, and no assurance can be given that, if the Sunset Provision are activated, the General Assembly will enact a Savings Clause to override it.

#### **Highway Allocation Formula**

The Transportation Board is required by the Code of Virginia to allocate each year all funds made available for highway purposes in accordance with the priorities established by Section 33.2-358 of the Code of Virginia. Highway funds are allocated first for maintenance of interstate, primary, secondary and certain local roads and highways, administrative and general expenses, and other payments. The distribution of funding after this allocation was changed by the Chapter 1230.

After the first allocation of funds as described above, the Transportation Board shall allocate all remaining funds, as follows: (i) 30% to the Transportation Board's State of Good Repair Program, (ii) 20% to the Transportation Board's "High Priority Project Program," (iii) 20% to the "Construction District Grant Program," (iv) 20% to the "Interstate Operations and Enhancement Program," and (v) 10% to the "Virginia Highway Safety Improvement Program."

While the Code of Virginia establishes the priorities by which the Transportation Board must allocate the funds made available to it, the Transportation Board, VDOT and other transportation agencies are responsible for allocating such funds among transportation projects throughout the Commonwealth. In the normal course of business, the Transportation Board, VDOT and the other agencies procure and enter into contracts with private parties for the rehabilitation, construction and improvement of transportation projects. The procurements are conducted in various ways as permitted under the Code of Virginia, including traditional sealed bidding, design-

build arrangements and procurements under the PPTA. The PPTA encourages investment in the Commonwealth by private entities to facilitate the development and/or operation of transportation facilities, and PPTA contracts typically involve an allocation of financial, completion and other risks between the private entity and the Commonwealth that differ from the risk allocation in more traditional procurement formats. If any of these contracts were terminated or if the applicable project was delayed or altered, the Transportation Board, VDOT or the other applicable agency could be contractually obligated to pay certain costs associated with the delay or determination of the project incurred by the private party and to pay other related expenses and fees, which may or may not exceed the funding currently allocated to the applicable project. The payment obligation of the Transportation Board, VDOT or the other applicable agency is generally subject to appropriation by the General Assembly. While no specific funding source is identified, the Transportation Trust Fund is one possible funding source for such payments. If such a payment were to be made from the Transportation Trust Fund, the funds for such payment would be made available by changing the allocation of available funds among the projects in the Six-Year Improvement Plan. A change in the allocation of funds would not impact the revenues appropriated to the Transportation Trust Fund, but the change could impact the planned schedules of other projects. The Transportation Board, VDOT and the other agencies regularly adjust the allocation of the funds among transportation projects to account for a variety of factors. See the section "*Commonwealth Transportation Board, Virginia Department of Transportation – Financial Accountability and Program Delivery.*"

### Sources of Revenues

The following table summarizes the actual revenues for Fiscal Years 2015 through 2019 and the projected revenues for Fiscal Year 2020. Historical receipts of the Transportation Trust Fund may not be indicative of future receipts, especially because of the changes related to Chapter 1230.

#### **Total Transportation Trust Fund Revenues – All Modes (in millions)<sup>(1)</sup>**

<b>Fiscal Year Ending June 30:</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020<sup>(7)</sup></b>
Retail Sales and Use Tax	\$717.0	\$723.7	\$743.3	\$751.3	\$786.4	\$833.5
Motor Vehicle Sales and Use Tax <sup>(2)</sup>	251.8	265.4	275.4	272.8	285.9	288.9
Motor Fuels Taxes <sup>(3)</sup>	118.8	138.9	138.6	136.5	136.5	152.7
	21.8	21.6	22.2	21.6	22.5	53.0
Motor Vehicle Registration Fees <sup>(4)</sup>						
	28.0	29.5	48.1	47.8	47.1	48.8
Recordation Tax <sup>(5)</sup>						
	6.4	2.4	3.9	5.4	9.4	2.9
Priority Transportation Fund <sup>(6)</sup>	<u>180.8</u>	<u>186.0</u>	<u>199.9</u>	<u>205.2</u>	<u>209.2</u>	<u>231.2</u>
<b>Total Transportation Trust Fund Revenues</b>	<b><u>\$1,324.5</u></b>	<b><u>\$1,367.5</u></b>	<b><u>\$1,431.4</u></b>	<b><u>\$1,440.6</u></b>	<b><u>\$1,497.0</u></b>	<b><u>\$1,610.9</u></b>

Sources: Department of Accounts and Department of Motor Vehicles for FYs 2014 through 2019. Department of Motor Vehicles, Department of Taxation and Department of Transportation for revenue estimates for FY 2020.

<sup>(1)</sup> Net of moneys deposited in the Federal Fund, which is part of the Transportation Trust Fund.

<sup>(2)</sup> Motor Vehicle Sales and Use Tax and Motor Vehicle Rental Tax. Note these taxes were amended by the Chapter 766.

<sup>(3)</sup> Motor Fuels Tax, Special Fuel Tax, Aviation Special Fuel Tax and Road Tax. Note these taxes were amended by the Chapter 766 (2013) and Chapter 837 (2019). The 2019 increase in road taxes is committed to Interstate Improvements.

<sup>(4)</sup> Motor Vehicle Registration Fees includes the revenue anticipated from an increase in truck registration fees beginning July 1, 2019 in accordance with Chapter 837 (2019). These funds are committed to Interstate Improvements.

<sup>(5)</sup> Reflects the deposits into the Transportation Trust Fund on and after July 1, 2008, from the revenues collected each Fiscal Year from \$0.02 of the total state recordation taxes imposed pursuant to Sections 58.1-801 and 58.1-803 of the Code of Virginia. Beginning in Fiscal Year 2017, the estimate reflects the revenue from \$0.01 of the total state recordation taxes that was previously dedicated to the Highway Maintenance and Operating Fund. It is now dedicated to the Commonwealth Transit Capital Fund.

<sup>(6)</sup> Reflects the deposits into the Priority Transportation Fund on and after July 1, 2008 of one-third of the revenues of the Insurance Tax and incremental motor fuels tax revenues (as described under the heading below "*Priority Transportation Fund Revenues*"). Amounts shown include estimated investment income.

<sup>(7)</sup> Based on Commonwealth Transportation Fund Forecast provided in December 2019. Includes the share of the increased Retail Sales and Use Tax dedicated to passenger rail and mass transit as a component of the Transportation Trust Fund. Preliminary estimates and actual results may vary.



The following table provides the projected revenues for Fiscal Year 2021 to be received in the Commonwealth Transportation Fund and the allocation to the Transportation Trust Fund, reflecting the changes related to Chapter 1230.

**Commonwealth Transportation Fund  
(in millions)**

<b>Fiscal Year Ending June 30:</b>	<b>Forecast 2021</b>
Retail Sales and Use Tax	\$1,149.4
Motor Vehicle Sales and Use Tax	926.6
Motor Fuels Taxes	1,110.0
Road Tax	53.9
International Registration Plan	65.7
Motor Vehicle Registration Fees	217.5
State Insurance Premium Tax	199.4
Recordation Tax	43.6
Motor Vehicle Rental Tax	44.2
Highway Use Fee	39.9
<b>Total Commonwealth Transportation Fund Revenues</b>	<b><u>\$3,850.2</u></b>
 <b>Distribution of Commonwealth Transportation Fund</b>	
Route 58 Corridor Development Fund	\$40.0
Northern Virginia Transportation District Fund	40.0
Special Structures Fund	10.0
Highway Maintenance and Operating Fund	2,009.5
<b>Allocation to Transportation Trust Fund</b>	<b><u>\$1,750.7</u></b>

Sources: Based on Commonwealth Transportation Fund Forecast provided in December 2019. Department of Taxation and Department of Transportation for revenue estimates for FY 2021. Estimate includes the impact of Chapter 1230 from the 2020 Acts of Assembly. Revenue estimates derived prior to COVID-19 impact. Distribution does not assume adjustments related to Enactment Clause 11 of Chapter 1230.

The following is a brief description of the taxes and fees designated for transfer into the Transportation Trust Fund.

**Retail Sales and Use Tax.** The retail sales tax is imposed on every transaction involving (i) the business of selling at retail or distributing tangible personal property in the Commonwealth; (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 furnishing 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 of services.

The use tax is imposed on the use or consumption of tangible personal property in 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 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 Code of Virginia provides various exclusions and exemptions to the retail sales and the use tax.

The state and local retail sales and use taxes were increased from 4.0% to 4.5% by the General Assembly in the 1986 Special Session Acts, and increased again in 2004 from 4.5% to 5.0%. The 1986 Special Session Acts designated the tax revenues from a 0.5% sales and use tax to the Transportation Trust Fund. Pursuant to Chapter 766 of the Acts of the General Assembly of the Commonwealth of Virginia 2013 Regular Session (“Chapter 766”), the 2013 General Assembly increased taxes by 0.3% to 5.3% (a portion of which was allocated to the HMO Fund), and pursuant to Chapter 766 the Commonwealth can collect the tax on online sales, if there is a change in federal law. On June 19, 2018, the U.S. Supreme Court in *South Dakota v. Wayfair, Inc.* held that states may require an out-of-state retailer to collect and remit sales tax on purchases by residents within that state. While many states, including the Commonwealth, have enacted legislation similar to the South Dakota statute at issue, which required out-of-state retailers to collect and remit sales taxes if they delivered more than \$100,000 of goods or services into the state or engaged in 200 or more separate transactions for the delivery of goods and services into the state on an annual basis, the U.S. Congress has not yet acted to provide consistent treatment of state tax collections by out-of-state retailers. Chapter 1230 dedicates Retail Sales and Use Taxes committed to transportation to the Commonwealth Transportation Fund.

***Motor Vehicle Sales and Use Tax.*** A tax based on the gross sales price or gross proceeds is levied upon the sale or use of motor vehicles in the Commonwealth, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The tax applies to the sale price of motor vehicles, mobile homes and mobile offices sold in the Commonwealth, with the exceptions noted above, and to the sale price of motor vehicles, mobile homes and mobile offices not sold in the Commonwealth but used or stored for use in the Commonwealth. Under Commonwealth law, certain motor vehicles are exempt from the sales and use tax. In general, the minimum tax levied on the sale of any motor vehicle in the Commonwealth is \$75.00.

The tax on the sale or use of a motor vehicle is paid by the purchaser or user of the new motor vehicle and collected by the Commissioner of the Department of Motor Vehicles (the “DMV Commissioner”) at the time the owner applies to that Department for, and obtains, a certificate of title. No tax is levied or collected upon the sale or use of a motor vehicle for which no certificate is required by the Commonwealth.

As a result of the 1986 Special Session Acts, this tax increased from 2.0% to 3.0%, effective January 1, 1987. Since then, the General Assembly has appropriated the net additional revenues generated by the increase to the Transportation Trust Fund. As a result of Chapter 766, effective July 1, 2013, this tax increased from 3.0% to 4.0%, and increased by 0.05% on each successive July 1 up to and including July 1, 2016, at which time the rate equaled 4.15%. Chapter 1230 dedicates the Motor Vehicle Sales and Use Tax to the Commonwealth Transportation Fund.

***Motor Fuels Tax.*** A tax is levied on motor fuels sold and delivered or used in the Commonwealth. Certain categories of motor fuels, however, are exempt from this tax under Code of Virginia Section 58.1-2226, including, but not limited to, fuel for the exclusive use of the governments of the United States, the Commonwealth and the Commonwealth’s political subdivisions and diesel fuel used for certain purposes. The motor fuels tax is collected by and paid to the Commonwealth only once with respect to any motor fuels. All aviation fuels that are sold and delivered or used in the Commonwealth are taxed. Synthetic motor fuel produced in the Commonwealth from coal is subject to an incremental tax. Likewise, motor fuels refined in the Commonwealth exclusively from crude oil produced in the Commonwealth in a refinery meeting certain specifications are subject to an incremental tax.

Each dealer or limited dealer in motor fuels must file monthly a report with the DMV Commissioner showing, among other things, the quantity of motor fuels and aviation fuel used, sold, or delivered during the preceding month. The motor fuels tax must be paid at the time the report is rendered to the DMV Commissioner.

***Motor Vehicle Annual Registration Fees.*** The annual registration fee collected by the DMV Commissioner for all motor vehicles, trailers and semi-trailers was increased \$3 per vehicle by the 1986 Special Session Acts, and the General Assembly has appropriated the net additional revenues from this fee increase to the Transportation Trust Fund. Chapter 1230 captures all registration fees for the Commonwealth Transportation Fund, including those dedicated to the HMO Fund and truck registration fees formerly committed to Interstate Improvements.

**[Other Motor Vehicle Related Taxes.** Pursuant to Chapter 766, certain other taxes related to motor vehicles are levied and a portion of the revenues are appropriated to the Transportation Trust Fund. Such taxes include items (ii) through (v) of the Fuels Tax described in the subsection “– Chapters 766 and 684 and the Transportation Trust Fund.”] [To be reviewed]

**Recordation Taxes.** Recordation taxes are imposed on every deed and deed of trust (mortgage) recorded in the Commonwealth subject to certain exceptions and exemptions. Chapter 896 of the Acts of Assembly, 2007 Regular Session (“Chapter 896”), effective July 1, 2008, provides that, of the state recordation taxes imposed pursuant to Sections 58.1-801 and 58.1-803 of the Code of Virginia, the revenues collected each Fiscal Year from \$0.02 of the total tax imposed under each section are appropriated for and deposited into the Transportation Trust Fund for the Commonwealth Mass Transit Fund. Chapter 684 of the Acts of the General Assembly of the Commonwealth of Virginia 2015 Regular Session (“Chapter 684”), effective July 1, 2017, provides that, of the state recordation taxes imposed pursuant to Section 58.1-801 and Section 58.1-803 of the Code of Virginia, the revenues collected each Fiscal Year from \$0.01 of the total tax are appropriated for and deposited into the Transportation Trust Fund for use in the Commonwealth Transit Capital Fund through fiscal year 2020. Chapter 1230 dedicates these revenues to the Commonwealth Transportation Fund for distribution.

**Priority Transportation Fund Revenues through fiscal year 2020.** The General Assembly established the Priority Transportation Fund in 2000 under Section 33.2-1527 of the Code of Virginia, which was amended in (i) the first enactment clause of Chapter 896 and (ii) the first enactment clause of Chapter 766. The Priority Transportation Fund is a special non-reverting fund of the Transportation Trust Fund held in the state treasury. All revenues as may be designated in an appropriation act by the General Assembly for deposit to the Priority Transportation Fund shall be paid into the state treasury and credited to the Priority Transportation Fund. Effective July 1, 2013, such revenues include:

(1) One-third of the revenues derived from the annual license tax imposed on insurance companies doing business in the Commonwealth under Chapter 25 of Title 58.1 of the Code of Virginia, with certain adjustments as described below (the “PTF Insurance Tax Revenues”);

(2) A certain portion of the revenues derived from taxes imposed on motor fuels under the Virginia Fuels Tax Act, Chapter 22 (Section 58.1-2200 et seq.) of Title 58.1 of the Code of Virginia (the “PTF Motor Fuels Tax Revenues”);

(3) All revenues that exceed the official forecast, pursuant to Section 2.2-1503 of the Code of Virginia, for (i) the Highway Maintenance and Operating Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in Section 33.2-1526 of the Code of Virginia, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section; and

(4) Any other such funds as may be transferred, allocated, or appropriated.

Chapter 1230 dedicates the Insurance Premium Taxes and fuel taxes previously dedicated to the PTF to the Commonwealth Transportation Fund for distribution beginning in fiscal year 2021.

[Consider descriptions of Road Tax, International Registration Plan, Motor Vehicle Rental Tax, Highway User Fee?]

### **Economic Conditions Affecting the Transportation Trust Fund**

The availability of funds in the Transportation Trust Fund is dependent on a number of economic factors. The bulk of such funds dedicated to the Fund consists of the motor fuels taxes, motor vehicles sales and uses taxes and retail sales and use taxes described above in this Section, which may fluctuate based on, among other things, the condition of the Commonwealth and national economies, population growth, income and employment levels, levels of tourism, weather conditions, fuel prices, vehicle fuel efficiency, road conditions, and the availability of alternate modes of transportation. There can be no assurance that downturns in any of the numerous factors affecting these revenues will not significantly affect the availability of funds in the Transportation Trust Fund to make timely payments on the GARVEE Notes, including the 2020 Notes. See Appendix C, “*Commonwealth of Virginia, Demographic and Economic Information*” for certain information regarding some of these factors. The availability

of funds in the Transportation Trust Fund is also subject to appropriation by the General Assembly, and the expected initial source of repayment of the 2020 Notes is Federal Highway Reimbursements. See the section “*Sources of Payment and Security for the GARVEE Notes.*”

**There is no assurance that any of these taxes or fees will remain in effect or that they will continue at their current levels. The General Assembly is under no obligation to continue the appropriation of the revenues generated by Chapter 1230 to the Transportation Trust Fund or for other transportation-related purposes. Further unanticipated costs related to delayed, altered or terminated major transportation projects may be paid from the Transportation Trust Fund.**

## **AUTHORIZED, ISSUED AND UNISSUED BONDS PAYABLE FROM TRANSPORTATION TRUST FUND**

The General Assembly has enacted from time to time legislation providing for the issuance of revenue bonds for transportation facilities which are payable from various sources, including appropriations from the Transportation Trust Fund. Set forth below are descriptions of the financing programs for highway projects, the bonds for which the General Assembly has committed, subject to appropriation, to pay from Transportation Trust Fund revenues. The descriptions include the credit structure of and the authorized, issued and unissued bonds under each such program. Chapter 1230 are not expected to have any effect on the security or payment of debt service on any bonds issued or to be issued under each such program, which the General Assembly continues to commit, subject to appropriation, to pay from Transportation Trust Fund revenues. **The Transportation Board makes no representation that the General Assembly will maintain the Transportation Trust Fund or that the General Assembly will not repeal or materially modify the statutes governing any of the programs described below, including the amount of bonds authorized thereunder, or the Transportation Trust Fund.** See the subsections “*Transportation Trust Fund – General,*” and “*– Sources of Revenues.*”

### **Transportation Revenue Bonds**

**Northern Virginia Transportation District Program.** The General Assembly enacted legislation in 1993, as amended in the 1994, 1998, 1999, 2002, 2005 and 2020 Regular Sessions (“NVTD Bond Legislation”) that authorized the Transportation Board to issue Transportation Revenue Bonds (“NVTD Bonds”), pursuant to the Revenue Bond Act, as amended, in the amount of up to \$500,200,000, plus an additional amount for issuance costs, capitalized interest, reserve funds and other financing expenses for certain projects in the Northern Virginia Highway Construction District (the “NVTD Program”). Refunding bonds are not included in this limit. It is expected that revenue for payment of the debt service on the NVTD Bonds will be provided from funds appropriated by the General Assembly from (i) the Northern Virginia Transportation District Fund (the “NVTD Fund”); (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the Northern Virginia Highway Construction District or the city or county in which the project or projects to be financed by the NVTD Bonds are located; (iii) to the extent required, legally available revenues of the Transportation Trust Fund; and (iv) such other funds which may be appropriated by the General Assembly. The NVTD Fund consists of (i) transfers of \$40,000,000 annually from the Commonwealth Transportation Fund; (ii) any public rights-of-way use fees appropriated by the General Assembly; (iii) any state or local revenues which may be deposited to the NVTD Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia Transportation District Program and the Transportation Board; and (iv) any other funds as may be appropriated by the General Assembly and designated for the NVTD Fund and all earnings on the NVTD Fund. Since its first issuance in 1993, the Transportation Board has issued \$477,870,000 in NVTD Bonds, which includes amounts to cover issuance costs, reserve funds, and other financing expenses, to finance the costs of the NVTD Program plus an additional \$505,415,000 to refund NVTD Bonds that had been previously issued. Of the total amount of NVTD Bonds issued, \$85,055,000 is currently outstanding. Chapters 854 and 856 of the 2018 Acts of Assembly and Chapter 1230 amended Section 33.2-2400 of the Code of Virginia, requiring \$20 million each year be transferred from the NVTD Fund to the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to Section 33.2-3401, beginning in Fiscal Year 2019 and to the Northern Virginia Transportation Authority Fund established pursuant to Section 33.2-2509, beginning in Fiscal Year 2021.

**U.S. Route 58 Corridor Development Program.** The General Assembly enacted legislation in 1989, as amended in the 1999, 2013 and 2020 Regular Sessions (“U.S. Route 58 Bond Legislation”), that authorized the

Transportation Board to issue Transportation Revenue Bonds (“U.S. Route 58 Bonds”), pursuant to the Revenue Bond Act, in an amount not to exceed \$1,300,000,000, plus an amount for issuance costs, reserve funds and other financing expenses, to finance a portion of the costs of the development of a modern, safe and efficient highway system generally along the U.S. Route 58 Corridor (“U.S. Route 58 Program”). Refunding bonds are not included in this limit. The U.S. Route 58 Bonds are payable from funds appropriated by the General Assembly from (i) the \$40,000,000 of annual collections from the Commonwealth Transportation Fund, (ii) to the extent required, other revenues legally available from the Transportation Trust Fund, and (iii) to the extent required, other legally available funds. Since its first issuance in 1989, the Transportation Board has issued \$720,110,000 in U.S. Route 58 Bonds, which includes amounts to cover issuance costs, reserve funds, and other financing expenses, to finance the costs of U.S. Route 58 Program plus an additional \$963,715,000 to refund U.S. Route 58 Bonds that had been previously issued. Of the total amount of U.S. Route 58 Bonds issued, \$79,365,000 is currently outstanding.

***Transportation Improvement Program Set-Aside Fund.*** The 1993 Session of the General Assembly also authorized the creation of the Transportation Improvement Program Set-aside Fund (the “Set-aside Fund”) for transportation improvements endorsed by the requesting local jurisdiction or jurisdictions affected and to provide for the issuance of Transportation Program Revenue Bonds pursuant to the Revenue Bond Act to finance those improvements. The jurisdiction or jurisdictions requesting participation in the Set-aside Fund and the issuance of bonds must agree [that certain distributions of state recodation taxes attributable to them be deposited in the Set-aside Fund by the State Treasurer] and used to pay debt service on any Transportation Program Revenue Bonds issued by the Transportation Board to finance the cost of the improvements. Before any bonds may be issued, the improvements to be financed must be approved by the General Assembly.

If amounts in the Set-Aside Fund are insufficient to pay debt service on Transportation Program Revenue Bonds, such Transportation Program Revenue Bonds may be paid, subject to appropriation, from Transportation Trust Fund revenues.

The 1994 Session of the General Assembly authorized the issuance of \$32,500,000 Transportation Program Revenue Bonds, plus an additional amount for issuance costs, capitalized interest, reserve funds and other financing expenses, to finance the cost of the Oak Grove Connector project. In July 1997, the Transportation Board issued bonds in the amount of \$32,500,000 to finance the Oak Grove Connector, a portion of which was refunded by the Transportation Program Revenue Refunding Bonds Series 2006A, which were themselves refunded by the Transportation Program Revenue Refunding Bonds, Series 2016A (the “Oak Grove Connector Bonds”). Of the total amount of Oak Grove Connector Bonds issued, \$3,695,000 is currently outstanding. These Transportation Program Revenue Bonds are the only bonds authorized to be paid from the Set-aside Fund.

***Transportation Contract Revenue Bonds.*** In the 1988 Regular Session, the General Assembly enacted legislation which authorized the Transportation Board to issue Transportation Contract Revenue Bonds pursuant to the Revenue Bond Act in an amount not to exceed \$160,700,000 to finance the costs of Phase I of the Route 28 project, plus an amount for issuance costs, reserve funds and other financing expenses. Due to a subsequent reduction in the estimated Phase I cost, the Transportation Board issued \$138,483,372.25 of Transportation Contract Revenue Bonds, Series 1988 (the “Series 1988 Bonds”). The balance of the authorization was not required to complete Phase I of the Route 28 project. In the 1990 Session, the General Assembly amended the legislation to permit any proceeds of the Series 1988 Bonds remaining after the completion of Phase I and any of the unissued Transportation Contract Revenue Bonds authorized under the legislation to be applied to Phase II of the Route 28 project. No other bonds have been authorized for Phase II. In 1992, the Transportation Board refunded all of the outstanding Series 1988 Bonds by issuing \$111,680,000 of Transportation Contract Revenue Bonds, Series 1992 (the “Series 1992 Bonds”). The 1993 Session of the General Assembly provided for the rezoning of commercial and industrial property within the Route 28 Transportation Improvement District to residential property provided the property owner makes a one-time payment equal to the projected tax revenues over the life of the Series 1992 Bonds as if the property had remained zoned for commercial or industrial use. In October 2002, the Transportation Board issued bonds in the amount of \$83,820,000 to refund the outstanding principal balance on the Series 1992 Bonds and issued Transportation Contract Revenue Bonds in the amount of \$36,823,667.45 to finance a portion of the costs of Phase II improvements plus an amount for issuance costs. These Transportation Contract Revenue Bonds were issued under a new Master Indenture of Trust, dated as of October 1, 2002 (the “Route 28 Indenture”), with security features similar to those for the Series 1988 Bonds and Series 1992 Bonds. The Series 2002 Bonds are payable from funds appropriated by the General Assembly for such purpose from the following three sources: (i) special tax

revenues collected from a tax levied on commercial and industrial property in the Route 28 Transportation Improvement District, (ii) money appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the Northern Virginia Highway Construction District or to the Counties of Fairfax or Loudoun, and (iii) other legally available money in the Transportation Trust Fund. In the Route 28 Indenture, the Transportation Board agrees that it shall issue no further notes, bonds or other evidence of indebtedness under the provisions of the Master Indenture of Trust, dated as of September 1, 1988, pursuant to which the Series 1988 Bonds and Series 1992 Bonds were issued. In May 2012, the Transportation Board issued bonds in the amount of \$50,620,000 to refund a portion of the outstanding Series 2002 Bonds. Of the total amount of Transportation Contract Revenue Bonds issued, as of September 1, 2020, \$63,462,568 is outstanding (net of unamortized discount on the outstanding Series 2002 capital appreciation bonds).

**Capital Projects Revenue Bonds.** The Commonwealth Transportation Capital Projects Bond Act of 2007, enactment clause 2 of Chapter 896 of the Acts of Assembly, 2007 Regular Session, as amended by Chapters 830 and 868 of the Acts of Assembly, 2011 Regular Session (the “2007 Act”), authorizes the Transportation Board to issue Capital Projects Revenue Bonds as revenue obligations of the Commonwealth at one or more times in an aggregate principal amount not to exceed \$3 billion excluding any refunding Capital Projects Revenue Bonds. The 2007 Act further provides that if the aggregate principal amount issued in any FY is less than \$300,000,000, then the amount by which the issuance is less than \$300,000,000 may be issued in any subsequent FY in addition to the \$300,000,000 authorized in the subsequent FY. Chapters 830 and 868 of the Acts of Assembly, 2011 Regular Session amended the 2007 Act to increase the annual issuance limitation in FY 2012 and FY 2013 to \$500,000,000 and \$600,000,000, respectively. During the General Assembly 2018 Regular Session, the Virginia Senate passed Senate Bill 856 (“SB856”) and the Virginia House of Delegates passed House Bill 1539 (“HB1539”) to amend the 2007 Act to authorize the Transportation Board, with the consent of the Governor, to issue at one time an aggregate principal amount not to exceed an additional \$50 million. The net proceeds of the additional bonds would be used exclusively to match federal funds provided for capital projects by the Washington Metropolitan Area Transit Authority. This legislation was signed by the Governor on May 18, 2018.

The proceeds of the Capital Projects Revenue Bonds authorized by the 2007 Act are to be used to pay the costs of transportation projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying for the costs of transportation projects. A minimum of 20% of the proceeds is required to be used for transit capital, a minimum of 4.3% of the proceeds is required to be used for rail capital, and the remaining amount of proceeds is required to be used for paying the costs of transportation projects, with such proceeds used or allocated (i) first to match certain federal highway funds, (ii) next to provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds, and (iii) third to pay or fund the costs of statewide or regional projects throughout the Commonwealth. Costs for construction or funding of these transportation projects include, but are not limited to, the costs of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and related improvements, and any financing costs or other financing expenses related to the Capital Projects Revenue Bonds. The 2007 Act allows the Transportation Board flexibility, within the statutory requirements, to determine the amount of Capital Projects Revenue Bonds to be used to match federal highway funds and to support the revenue sharing program. The Capital Projects Revenue Bonds are payable from and secured by revenues, receipts and funds appropriated by the General Assembly for payment thereof, or allocated by the Transportation Board for such purpose from revenues, receipts and funds appropriated to it by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund, which is a part of the Transportation Trust Fund, (ii) to the extent required, from revenues legally available from the rest of the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds.

Item 456.H. of Chapter 874 of the Acts of Assembly, 2010 Regular Session, as amended by Chapter 890 of the Acts of Assembly, 2011 Regular Session (collectively, the “Appropriation Acts”) authorizes the Transportation Board to issue Capital Projects Revenue Bonds at one or more times in an aggregate principal amount not to exceed \$180,000,000, after all costs, with the net proceeds of the Appropriation Act bonds to be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of transportation projects set forth in Item 449.10 of Chapter 847 of the Acts of Assembly, 2007 Regular Session, including but not limited to environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses.

Since its first issuance in 2010, the Transportation Board has issued \$2,883,515,000 Capital Projects Revenue Bonds to finance the cost of certain eligible transportation projects plus an addition \$629,165,000 to refund Capital Projects Revenue Bonds that had been previously issued. Of the total amount of Capital Projects Revenue Bonds issued, \$2,334,120,000 is currently outstanding.

## COMMONWEALTH TRANSPORTATION BOARD AND VIRGINIA DEPARTMENT OF TRANSPORTATION

### Commonwealth Transportation Board

The Transportation Board consists of 17 members, including the Secretary of Transportation of the Commonwealth, the Commissioner of Highways, the Director of the Department of Rail and Public Transportation, and fourteen citizen members from various areas of the Commonwealth appointed by the Governor, subject to confirmation by the General Assembly. One member is chosen from each of the Commonwealth's nine highway construction districts, three members are selected as urban at-large members and two members are selected as rural at-large members. In addition to representing rural and urban transportation needs, the at-large members represent the interests of seaport, airport, railway and mass transit users. The Chairman of the Transportation Board is the Secretary of Transportation. Only the fourteen citizen members of the Transportation Board have voting privileges, except that the Chairman has voting privileges in the event of a tie and the Vice Chairman has voting privileges in the event of a tie and when the Vice Chairman is presiding in the absence of the Chairman.

The current membership of the Transportation Board, the expiration dates of their terms and the constituency represented by each member are as follows:

<u>Member</u>	<u>Term Expires</u>	<u>Constituency</u>
Shannon Valentine	At the Pleasure of the Governor	Chairperson, Transportation Board; Secretary of Transportation
F. Dixon Whitworth, Jr.	June 30, 2020*	Vice Chairman, Transportation Board; Staunton
Stephen C. Brich	At the Pleasure of the Governor	Commissioner of Highways
Jennifer Mitchell	At the Pleasure of the Governor	Director, Department of Rail and Public Transportation
Carlos M. Brown	June 30, 2023	Richmond District
Alison DeTuncq	June 30, 2022	Culpeper District
Bert Dodson, Jr.	June 30, 2023	Lynchburg District
Mary Hughes Hynes	June 30, 2020*	Northern Virginia District
E. Scott Kasprovicz	June 30, 2021	At-Large Urban
Stephen A. Johnsen	June 30, 2022	At-Large Rural
John Malbon	June 30, 2021	Hampton Roads District
W. Sheppard Miller, III	June 30, 2022	At-Large Urban
Cedric Bernard Rucker	June 30, 2022	Fredericksburg District
Raymond D. Smoot, Jr.	June 30, 2021	Salem District
Jerry L. Stinson	June 30, 2020*	Bristol District
Marty Williams	June 30, 2022	At-Large Urban
Greg Yates	June 30, 2020*	At-Large Rural

\*Member will continue to serve beyond expiration of term until reappointment or replacement.

*Shannon Valentine* was appointed as Secretary of Transportation of the Commonwealth by Governor Ralph Northam and confirmed by the General Assembly in January, 2018. The Transportation Secretariat provides a wide array of products and services including road construction and repairs, rest area maintenance, regulating sea ports, airports and rail, and issuing license plates and driver's licenses. Prior to being named Secretary, Ms. Valentine was a member of the Transportation Board and served in the state House of Delegates from 2006-2010, representing

Lynchburg and part of Amherst County. While in the General Assembly, she focused on transportation, housing and economic development issues and led the effort to invest in inner-city passenger rail service. She also previously served as co-director of a transition team focused on transportation issues for Governor Northam's predecessor, Governor Terry McAuliffe. Before being elected to the House of Delegates, Ms. Valentine worked as the neighborhood coordinator with the Lynchburg Neighborhood Development Foundation. She worked in non-profit community development and corporate marketing and public relations in the late 1980s and 1990s. Valentine is a graduate of the University of Virginia, where she earned a bachelor's degree in economics. She also holds an education for ministry certificate from Sewanee University and is a graduate of the Sorenson Institute for Political Leadership. She lives in Lynchburg, Virginia.

**Virginia Department of Transportation**

VDOT has the responsibility for construction, maintenance and operation of the Commonwealth highway system under legislation enacted by the General Assembly and in accordance with policies and procedures adopted by the Transportation Board.

VDOT's budget for FY 2020 is approximately \$6.4 billion. As of June 16, 2020, VDOT had 129 construction projects underway for an aggregate amount of approximately \$2.4 billion, with an outstanding balance to be paid of approximately \$1.3 billion as these projects progress towards completion. Additionally, VDOT had 220 maintenance projects underway for an aggregate amount of approximately \$563.1 million, with an outstanding balance to be paid of approximately \$365.8 million as these projects progress towards completion.

The Commonwealth has the nation's third largest system of state-maintained highways totaling approximately 58,000 miles of interstate, primary and secondary roads. The system includes approximately 21,000 bridges and culverts. In addition, independent cities and towns maintain about 11,600 miles of local streets and receive funds from the Transportation Board for such purpose.

The Commonwealth is divided geographically into nine construction districts for highway purposes as follows:

Bristol District	Hampton Roads District	Richmond District
Culpeper District	Lynchburg District	Salem District
Fredericksburg District	Northern Virginia District	Staunton District

These districts are divided into 29 residencies, each typically consisting of one to four counties. The field organization is further subdivided into 248 other locations across the Commonwealth that provide area maintenance. About 81% of VDOT's nearly 7,349 employees (as of June 1, 2020) are assigned to the field organization. The remainder is assigned to the central office in Richmond or to units associated with the central office that serves an administrative function.

**Financial Accountability and Program Delivery**

VDOT has been focused on the continuous improvement of its financial accountability and program delivery processes for more than a decade now. The agency has developed a long-term strategic vision and uses a business plan with performance goals and strategies. Transparency of operations has been enhanced through the creation of a public Dashboard, and the streamlining of operations, reorganization and the improvement of business practices have been a major focus.

Each quarter, VDOT prepares a performance report for review with the Commonwealth Transportation Board. Since tracking began in 2001, VDOT's performance shows a continued trend of improvement.

For Fiscal Year 2019, the agency attained on-time and on-budget performance goals by delivering more than 79% of all construction and maintenance projects on or before their original due dates, and by completing more than 94% of those projects within their budgets. In comparison, when tracking started in 2001 only 20% of construction contracts and 38% of maintenance contracts were delivered on time, while less than 60% were completed within budget.



The Current SYIP, adopted by the Transportation Board in June 2019, is based on the interim revenue forecast updates and cost estimates available. The issuance of Capital Projects Revenue Bonds and the utilization of existing authorization for the issuance of GARVEEs are reflected in the adopted Current SYIP. The program reflects the Transportation Board's commitment to citizen safety, by prioritizing critical safety and maintenance needs of the existing transportation system. The priorities of the update to the Current SYIP include: funding complete project phases, maximizing the use of federal funding, funding deficient bridges and paving projects, and implementation of Section 33.2-214.1 of the Code of Virginia. The Transportation Board and VDOT strive to be flexible with their project selection and implementation by proceeding with projects in phases. By doing so, the Transportation Board and VDOT remain able to allocate resources between projects in the event that funding decreases or is interrupted.

### **Virginia Department of Transportation Staff**

**Stephen C. Brich, P.E.** was named Commissioner by then by then Governor-Elect Ralph Northam in December 2017. At the time, Mr. Brich was a vice president with Kimley-Horn and Associates Inc., focusing on transportation-related matters in Virginia. He has more than 25 years of experience, specializing in traffic engineering, safety, operations, transportation planning and research. Prior to joining Kimley-Horn, he served in several senior roles with VDOT, including as the assistant district urban program manager, division administrator – Operations Management and assistant division administrator – Mobility Management. He successfully led and managed a wide array of transportation-related projects and studies during his tenure with VDOT, as well as in a consultant capacity. He also has been instrumental in developing various policy directives for VDOT as it relates to traffic engineering and transportation system management and operations. He began his career as an engineering technician in Norfolk. Mr. Brich holds a Bachelors of Science degree in civil engineering from Old Dominion University and a Masters of Science degree in civil engineering from the University of Virginia. He is a registered engineer in Maryland and Virginia. Mr. Brich is from the Hampton Roads area.

**Robert H. Cary, P.E., L.S** who started his career with the Virginia Department of Transportation in 1992, was named chief deputy commissioner of the agency in January, 2018. Mr. Cary was named VDOT's Chief of Innovation in March of 2017. In this position, he served as VDOT's executive leader responsible for bringing innovation to every aspect of VDOT's business. As chief of innovation, he managed VDOT's Transportation Research Council, Office of Private-Public Partnerships, and Strategic Technology Initiatives Office. Prior to taking on his current role within VDOT, he was the Richmond District engineer, where he was responsible for a \$450 million annual budget in delivering the construction, maintenance and operations programs across nearly 19,000 lane miles of state roadways and almost 2,600 National Bridge Inventory (NBI) structures. Mr. Cary has more than 29 years of experience in transportation design, project development and strategic leadership. He is a registered professional engineer and licensed surveyor and has a bachelor's degree in Civil Engineering from Virginia Tech. He began his career with the agency as a transportation engineer and rose through the roles of district Location and Design engineer, Preliminary Engineering manager and served as the district engineer in three of VDOT's districts across Virginia. Mr. Cary has served as a member of the American Association of State Highway Officials (AASHTO) Technical Committee on Project Management (chairman), AASHTO's Subcommittee on Design, and AASHTO's Council on Highways and Streets. He received AASHTO's Pathfinder Award, the AASHTO Subcommittee on Design's Award, three VDOT Commissioner's Awards for Excellence, as well as a Governor's Award for his work with VDOT. Mr. Cary holds a Bachelor of Science degree in civil engineering from Virginia Tech. He is a member of Chi Epsilon, the Civil Engineering Honor Society. He is also a graduate of VDOT's Executive Leadership Program and is a registered professional engineer and licensed surveyor in Virginia.

**Laura Farmer** was named chief financial officer of the Virginia Department of Transportation in October 2019. She oversees the agency's \$6.4 billion annual budget and is responsible for the leadership and execution of the agency's financial planning, capital investment, fiscal management, and tolling programs. She previously served as the agency's director of financial planning. In this role, she was instrumental in establishing the GARVEE Notes Program, and provided financial arrangements around the agency's innovative finance programs and public-private partnership projects, including the Elizabeth River Tunnels and I-95 Express Lanes projects. Prior to joining VDOT, Ms. Farmer served as a budget analyst for health and human resources agencies at the Virginia Department of Planning and Budget. Ms. Farmer earned a bachelor's in history from Chowan University in Murfreesboro, North Carolina and a master's degree in public policy from the College of William and Mary. She is a graduate of the Virginia Executive Institute, the Commonwealth Management Institute and the International Bridge, Tunnel and Turnpike Association Leadership Academy.

## THE 2020 PROJECT

The Transportation Board expects to use the proceeds of the 2020 Notes to pay a portion of costs associated with the transportation projects set forth below.

- Route 95- Relocation of Interchange at Route 630
- Route 277 Widening
- Interchange Construction Route 15/17/29 at Route 15/17/29 Business
- Route 7 Corridor Improvements – Phase I and Phase II
- Route 10 (Bermuda Triangle Road to Meadowville Road)
- I-95 Rappahannock River Crossing (Southbound)
- Route 7 Corridor Improvements Phase II
- I-66 Inside the Beltway Initiatives
- I-81 Northbound Auxiliary Lane from Exit 141 to 143
- I-81 at State Route 75 (Exit 17) Interchange Modification
- Route 682 Reconstruction

In the event that any component of the 2020 Project is delayed, altered or terminated, VDOT and the Transportation Board expect (i) as contemplated by the Indenture, to pay the debt service on the 2020 Notes, without interruption, from the monies pledged as part of the Trust Estate, which include: (A) all reimbursements and assistance received by the Transportation Board from the Federal Highway Administration including Indirect Reimbursements unrelated to projects associated with GARVEE Notes, and (B) funds from the Transportation Trust Fund appropriated for such purposes by the General Assembly, and (ii) if necessary, to substitute or add an additional eligible project or projects and use proceeds of the 2020 Notes that were expected to be used to pay certain costs of the 2020 Project for such project or projects in accordance with the requirements of the GARVEE Notes Program and the MOA. See the subsections “*The GARVEE Notes Program – Memorandum of Agreement*,” and “*Sources of Payment and Security for the GARVEE Notes – Flow of Revenues under the Indenture; ‘Back-Stop’ Pledge of Indirect Reimbursements*” and “*– Payment Agreement*” and the section “*Debt Service Coverage*.”

## CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the 2020 Notes will be subject to the approving opinion of Kutak Rock LLP, Richmond, Virginia, Bond Counsel, which will be furnished at the expense of the Transportation Board upon delivery of the 2020 Notes, substantially in the form set forth in Appendix E. Bond Counsel's opinion will be limited to matters relating to the authorization and the validity of the 2020 Notes and to the federal income status of interest on the 2020 Notes, as described in the section “*Tax Matters*.” Bond Counsel has not been engaged to investigate the financial resources of the Transportation Board, the Commonwealth or the ability to provide for payment of the 2020 Notes, and Bond Counsel's 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 the 2020 Notes.

Certain legal matters will be passed upon for the Commonwealth by the Office of the Attorney General of Virginia.

## TAX MATTERS

### Opinion of Bond Counsel – Federal Income Tax

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the 2020 Notes is excludable from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the Transportation Board with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the

2020 Notes. Failure to comply with such requirements could cause interest on the 2020 Notes to be included in gross income for federal income tax purposes retroactive to their date of issuance. The Transportation Board will covenant to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the 2020 Notes.

The accrual or receipt of interest on the 2020 Notes may otherwise affect the federal income tax liability of the owners of the 2020 Notes. The extent of these other tax consequences will depend on such owners' particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the 2020 Notes, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States of America), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers entitled to claim the earned income credit, taxpayers entitled to claim the refundable credit in Section 36B of the Code for coverage under a qualified health plan or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the 2020 Notes.

**Original Issue Discount.** The 2020 Notes that have an original yield above their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Discount Notes"), are being sold at an original issue discount. The difference between the initial public offering prices of such Discount Notes 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 Discount Note is added to the cost basis of the owner thereof in determining, for federal income tax purposes, gain or loss upon disposition of such Discount Note (including its sale, redemption or payment at maturity). Amounts received on disposition of such Discount Note 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 Discount Note, on days that are determined by reference to the maturity date of such Discount Note. The amount treated as original issue discount on such Discount Note for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for such Discount Note (determined by compounding at the close of each accrual period) and (ii) the amount that would have been the tax basis of such Discount Note at the beginning of the particular accrual period if held by the original purchaser, (b) less the amount of any interest payable for such Discount Note 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 Discount Note the sum of the amounts that have been treated as original issue discount for such purposes during all prior periods. If such Discount Note 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 Discount Notes 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 Discount Note. Subsequent purchasers that purchase Discount Notes for a price that is higher or lower than the "adjusted issue price" of such Discount Notes 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 2020 Notes that have an original yield below their respective interest rates, as shown on the inside cover of this Official Statement (collectively, the "Premium Notes"), are being sold at a premium. An amount equal to the excess of the issue price of a Premium Note over its stated redemption price at maturity constitutes premium on such Premium Note. A purchaser of a Premium Note must amortize any premium over such Premium Note's term using constant yield principles, based on the purchaser's yield to maturity (or, in the case of Premium Notes 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 Note 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 Note prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. Purchasers of the Premium Notes 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 Note.

**Backup Withholding.** As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on tax-exempt obligations such as the 2020 Notes is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments to any owner of the 2020 Notes that fails to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the 2020 Notes from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

**Internal Revenue Service Audits.** The Internal Revenue Service has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Internal Revenue Service, interest on such tax-exempt obligations is included in the gross income for federal income tax purposes. It cannot be predicted whether or not the Internal Revenue Service will commence an audit of any of the 2020 Notes. If an audit is commenced, under current procedures the Internal Revenue Service may treat the Transportation Board, as the issuer of the 2020 Notes, as a taxpayer, and the registered owners of the 2020 Notes may have no right to participate in such procedure. The commencement of an audit could adversely affect the market value and liquidity of the related 2020 Notes until the audit is concluded, regardless of the ultimate outcome.

#### **Opinion of Bond Counsel – Virginia Income Tax Consequences**

Bond Counsel's opinion also will state that, under current law, interest on the 2020 Notes is exempt from income taxation by the Commonwealth and any of its political subdivisions. Bond Counsel will express no opinion regarding (i) other Virginia tax consequences arising with respect to the 2020 Notes or (ii) any consequences arising with respect to the 2020 Notes under the tax laws of any state or local jurisdiction other than the Commonwealth. Prospective purchasers of the 2020 Notes should consult their own tax advisors regarding such other Commonwealth tax consequences or the tax status of interest on the 2020 Notes in a particular state or local jurisdiction other than the Commonwealth.

#### **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters referred to under this heading "TAX MATTERS" or adversely affect the market value of the 2020 Notes. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to obligations issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the 2020 Notes. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the 2020 Notes or the market value thereof would be impacted thereby. Purchasers of the 2020 Notes should consult their tax advisors regarding any pending or proposed legislation, regulatory initiatives or litigation. The opinions expressed by Bond Counsel are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the 2020 Notes, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

**PROSPECTIVE PURCHASERS OF THE 2020 NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS PRIOR TO ANY PURCHASE OF THE 2020 NOTES AS TO THE IMPACT OF THE CODE UPON THEIR ACQUISITION, HOLDING OR DISPOSITION OF THE 2020 NOTES.**

## LEGALITY FOR INVESTMENT

The GARVEE Act provides that the 2020 Notes are securities in which all public officers and bodies of the Commonwealth and its political subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

No representation is made as to the eligibility of the 2020 Notes for investment or for any other purpose under the laws of any other state.

## LITIGATION

There is no litigation now pending or threatened to restrain or enjoin the issuance, sale, execution or delivery of the 2020 Notes or in any way contest or affect the validity of the 2020 Notes, any proceeding of the Transportation Board or the Treasury Board taken with respect to their issuance or sale, or any appropriation of funds to pay debt service on the 2020 Notes.

See the section “*Litigation of the Commonwealth*” in Appendix B for a discussion of litigation pending against the Commonwealth.

## CERTIFICATE CONCERNING OFFICIAL STATEMENT

Concurrently with the delivery of the 2020 Notes, officials who signed the 2020 Notes will certify that, to the best of their knowledge, the Official Statement did not as of its date, and does not as of the date of delivery of the 2020 Notes, contain any untrue statement of a material fact or 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 contained therein, in the light of the circumstances under which they were made, not misleading. Such certificate will also state, however, that such officials did not independently verify the information in the Official Statement from sources other than the Transportation Board and VDOT, but that they have no reason to believe that such information contains any untrue statement of a material fact or omits 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 contained therein, in the light of the circumstances under which they were made, not misleading.

## CONTINUING DISCLOSURE

### Rule 15c2-12 in General

Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), prohibits an underwriter from purchasing or selling municipal securities unless it has determined that the issuer of such securities and/or other persons deemed to be materially “obligated persons” (hereinafter referred to as “MOPs” and each, a “MOP”) have committed to provide (i) on an annual basis, certain financial information and operating data (collectively, “Annual Reports”) and (ii) notice of the events described in Rule 15c2-12 (“Event Notices”), to the Municipal Securities Rulemaking Board (the “MSRB”).

### Transportation Board Continuing Disclosure

The Transportation Board will covenant in a Continuing Disclosure Agreement in substantially the form set forth in Appendix F, for the benefit of the holders of the 2020 Notes, to provide to the MSRB Annual Reports with respect to itself as issuer and the GARVEE Notes Program. Similarly, the Transportation Board will provide Event Notices to the MSRB.

The Transportation Board is aware that it may not have complied with certain continuing disclosure undertakings in that (1) it did not timely file notice of a rating upgrade for one of its bond programs and (2) its

Annual Reports for Fiscal Year 2015 may not have contained all the information that was required to be included. The Transportation Board has taken steps to ensure future compliance with its undertakings regarding Rule 15c2-12.

### **Commonwealth Continuing Disclosure**

The Commonwealth, which the Transportation Board has determined to be a MOP for purposes of Rule 15c2-12, will covenant in a Continuing Disclosure Agreement, in substantially the form set forth in Appendix F, to be executed prior to the issuance of the 2020 Notes for the benefit of the holders of the 2020 Notes, to provide to the MSRB Annual Reports with respect to the Commonwealth. Similarly, the State Treasurer will provide Event Notices to the MSRB on rating changes with respect to the Commonwealth's general obligation bonds. See "*Continuing Disclosure Agreement*" in Appendix F hereto.

## **RATINGS**

Fitch Ratings, Moody's Investors Service, Inc. and S&P Global Ratings assigned the 2020 Notes ratings of "\_\_\_," "\_\_\_" and "\_\_\_" respectively.

Such ratings reflect only the respective views of such organizations. Reference should be made to the individual rating agency for a fuller explanation of the significance of the rating assigned by such rating agency. There is no assurance that the ratings will remain in effect for any given period of time or that they will not be revised downward or withdrawn entirely by any of the rating agencies if, in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of ratings may have an adverse effect on the market price of the 2020 Notes.

## **SALE AT COMPETITIVE BIDDING**

The 2020 Notes will be offered for sale at competitive bidding on [September \_\_\_], 2020, unless changed as described in the Notice of Sale in Appendix H hereto. This Preliminary Official Statement has been deemed final as of its date by the Transportation Board in accordance with the meaning and requirements of Rule 15c2-12, except for the omission of certain pricing and other information permitted to be omitted by Rule 15c2-12. After the 2020 Notes have been awarded, the Transportation Board will deem the Official Statement final as of its date, and the Official Statement as so completed will be a final official statement within the meaning of Rule 15c2-12 (the "Final Official Statement"). The Final Official Statement will include, among other matters, the identity of the winning bidder and the managers of the syndicate, if any, submitting the winning bid (the "Underwriter"), the expected selling compensation to the Underwriter of the 2020 Notes and other information on the interest rates and offering prices or yields of the 2020 Notes, as supplied by the Underwriter.

## **FINANCIAL ADVISOR**

Public Resources Advisory Group ("PRAG"), New York, New York, is serving as financial advisor to the Transportation Board on the issuance of the 2020 Notes. PRAG has assisted in the preparation of this Official Statement and in matters relating to the planning, structuring and issuance of the 2020 Notes and has provided other advice. PRAG is a financial advisory and consulting organization and is not engaged in the business of underwriting, marketing or trading municipal or any other negotiable instruments.

## **TRUSTEE**

The Transportation Board has appointed U.S. Bank, National Association, a national banking association under the laws of the United States, as trustee for the 2020 Notes. The Trustee shall carry out those duties assigned to it under the Indenture. Except for the material under this heading, the Trustee has not reviewed or participated in the preparation of this Official Statement and assumes no responsibility for the nature, contents, accuracy or completeness of the information set forth in this Official Statement, the Indenture or the 2020 Notes, or for the validity, sufficiency, or legal effect of any of those documents.

Other than verifying that the Transportation Board has satisfied the procedures for requisitioning moneys from Funds established under the Indenture, the Trustee is not accountable for the Transportation Board's use or application of the proceeds of the 2020 Notes. The Trustee is not responsible or liable for any loss suffered in connection with any investment of money made by it in accordance with the Indenture. The Trustee has not evaluated the risks, benefits or propriety of any investment in the 2020 Notes and makes no representation, and has reached no conclusions, regarding the value or condition of any of the assets or revenues pledged or assigned as security for the 2020 Notes, the technical or financial feasibility of any Project, or the investment quality of the 2020 Notes, about all of which the Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

## **RELATIONSHIP OF PARTIES**

Kutak Rock LLP, Bond Counsel, represents the Commonwealth and U.S. Bank National Association (the Trustee), from time to time in unrelated matters.

## **MISCELLANEOUS**

The references in this Preliminary Official Statement to the Indenture, the Payment Agreement, and other documents are brief outlines of certain of their provisions. These outlines do not purport to be complete and reference is made to such documents, copies of which will be furnished by the Transportation Board, upon request made to Laura Farmer, Chief Financial Officer, Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219 (telephone: 804-786-3096).

So far as any statements made in this Preliminary Official Statement involve matters of opinion or of estimates, whether or not expressly stated, they are set forth as such and not as representations of fact. No representation is made that any of the statements will be realized. Neither this Preliminary 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 2020 Notes.

The purpose of this Preliminary Official Statement is to supply information to prospective buyers of the 2020 Notes. All quotations from and summaries and explanations of laws contained in this Preliminary Official Statement do not purport to be complete and reference is made to such laws for full and complete statements of their provisions.

The Transportation Board has deemed this Preliminary Official Statement final as of its date within the meaning of Rule 15c2-12, except for the omission of certain pricing and other information permitted to be omitted by Rule 15c2-12.

The distribution of this Preliminary Official Statement has been duly authorized by the Transportation Board.

## **COMMONWEALTH TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Shannon R. Valentine, Chairperson

**APPENDIX A**

**DEFINITIONS AND SUMMARIES OF THE INDENTURE  
AND THE PAYMENT AGREEMENT**



**DEFINITIONS AND SUMMARIES OF  
THE INDENTURE AND THE PAYMENT AGREEMENT**

**DEFINITIONS**

In addition to the terms previously defined in this Official Statement, the following words used in this summary will have the following meanings unless a different meaning clearly appears from the context:

**"Accreted Value"** means any amount defined as such in a Supplemental Indenture for purposes of determining the Note Payments on, certain rights of the Owner of or certain other matters with respect to a Capital Appreciation Note.

**"Accretion Date"** means any date defined as such in a Supplemental Indenture for purposes of determining the Accreted Value or Maturity Value of a Capital Appreciation Note.

**"Act"** means, collectively, the Transportation Development and Revenue Bond Act and the Note Act.

**"Authorized Board Representative"** means (i) the Chairman or (ii) any other officer or employee of the Transportation Board authorized by law or by a writing signed by the Chairman to act as an Authorized Board Representative under the Master Indenture or any Supplemental Indenture.

**"Balloon Indebtedness"** means any Notes 25% or more of the principal payments of which are due in a single Federal Fiscal Year, which portion of the principal is not required by the Supplemental Indenture authorizing the issuance of such Notes to be amortized by payment or redemption prior to such Federal Fiscal Year.

**"Bond Counsel"** means a firm of attorneys with nationally recognized expertise in the issuance of municipal securities, the interest on which is excluded from gross income for federal income tax purposes.

**"Business Day"** means any day other than a Saturday, a Sunday or a day on which banks in New York, New York, Richmond, Virginia or any city identified in a Supplemental Indenture are authorized by law to remain closed.

**"Capital Appreciation Note"** means a Note the interest on which is compounded and accumulated at the rate and on the dates set forth in the related Supplemental Indenture and is payable upon redemption or on the maturity date of such Note or on the date, if any, upon which such Note becomes a Current Interest Note.

**"Chairman"** means the Chairman or Vice-Chairman of the Transportation Board.

**"Code"** means the Internal Revenue Code of 1986, as amended, and any successor statute. Each citation to a Code section shall include the applicable Treasury Regulations, revenue procedures, revenue rulings and notices.

**"Code of Virginia "** means the Code of Virginia of 1950, as the same may be amended from time to time.

**"Commonwealth"** means the Commonwealth of Virginia.

**"Costs"** or **"Costs of the Project"** means, with respect to a Project, any or all costs described in subsection (5) or (6), as applicable, of Section 33.2-1700 of the Code of Virginia.

**"Credit Facility"** means any letter of credit, insurance, stand-by credit or liquidity agreement or other form of credit ensuring timely payment of any Notes, including the Note Payments on or the purchase price of such Notes, which is entered into in accordance with the Master Indenture.

**"Current Interest Note"** means a Note on which interest is payable on Interest Payment Dates prior to maturity or redemption prior to maturity.

**"Debt Service Fund"** means the Debt Service Fund, a special fund created by the Master Indenture in accordance with the Act.

**"Defeasance Escrow Account"** means any trust account into which money and/or Defeasance Securities are deposited for the purpose of defeasing any Notes in accordance with the Master Indenture.

**"Defeasance Securities"** means Permitted Investments that, at the time they are deposited into a Defeasance Escrow Account:

(a) either (i) cannot be redeemed prior to maturity at the option of any Person other than the owner thereof or (ii) the redemption date of which has been irrevocably fixed by an irrevocable exercise of an option to redeem on such date or an irrevocable covenant to exercise an option to redeem on such date (in which case the fixed redemption date shall be treated as the maturity date); and

(b) either (i) are direct obligations of the United States government or (ii) obligations the principal of and interest on which are unconditionally guaranteed by the United States government, or any combination thereof.

**"Department"** means the Virginia Department of Transportation.

**"Event of Default"** means any one or more of those events set forth in the Master Indenture as follows: (i) default in the payment of any portion of the Note Payments on any Note when due; (ii) subject to certain provisions of the Master Indenture, failure by the Transportation Board to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Master Indenture; and (iii) any additional Event of Default set forth in a Supplemental Indenture.

**"Expenditures"** means expenditures made from the Highway Maintenance and Operating Fund and the Transportation Trust Fund that may be reimbursed from Federal Highway Reimbursements in the Federal Fund after provision for the payments and deposits is set forth in the Master Indenture and described below in the subsection *"Creation of Funds – Flow of Funds from Federal Fund to Debt Service Fund."*

**"Federal Aid Agreement"** means one or more agreements, including the Memorandum of Agreement, or memoranda of understanding between the Transportation Board and FHWA pursuant to which FHWA agrees to pay Federal Highway Reimbursements to pay or to reimburse the Transportation Board for Note Payments for Notes issued to finance specific Projects, as such agreement or agreements may be supplemented, amended or modified or replaced by another agreement or instrument regarding the payment of Federal Highway Reimbursements by FHWA to pay or to reimburse the Transportation Board for Note Payments.

**"Federal Fiscal Year"** means the period commencing on October 1 in each calendar year and ending on the last day of September of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the federal government as its fiscal year.

**"Federal Fund"** means the subaccount with the Transportation Trust Fund, established according to Sections 33.2-1524 and 33.2-1525 of the Code of Virginia, into which all Federal Highway Reimbursements are deposited. The Federal Fund is sometimes referred to the "Federal Highway Fund" in the Department's annual reports and other documentation.

**"Federal Highway Reimbursements"** means all federal-aid highway construction reimbursements and any other federal highway assistance received from time to time by the Commonwealth under or in accordance with Title 23 of the United States Code or any successor program established under federal law from the Federal Highway Administration and any successor or additional federal agencies.

**"FHWA"** means the United States Department of Transportation, Federal Highway Administration, its successors and assigns and any other agency or branch of government of the United States which succeeds to the powers of FHWA, which term includes the United States Secretary of Transportation and any other appropriate officer of FHWA with authority to grant approvals or consents or to take other appropriate action as is necessary to

approve the Projects, federal grants to finance the Projects and the payment of Note Payments and to take such other action as is necessary for those purposes under Title 23.

**"Highway Maintenance and Operating Fund"** means the fund by that name maintained by the Department to account for revenues and expenditures for the general administration of the Department, the maintenance of highways, assistance to localities in the Commonwealth, and support to other state agencies. The Highway Maintenance and Operating Fund is not part of the Transportation Trust Fund.

**"Indenture"** means the Master Trust Indenture as further supplemented by the Seventh Supplemental Indenture.

**"Indirect Reimbursements"** means Federal Highway Reimbursements other than Project-Specific Reimbursements.

**"Interest Payment Date"** means any date defined as such in a Supplemental Indenture for purposes of paying the interest on a Series of Current Interest Notes.

**"Interest Rate Exchange Agreement"** means any interest rate exchange agreement authorized by law and entered into with respect to the Notes or any portion of the Trust Estate that is entered into in accordance with the Master Indenture.

**"Master Indenture"** means the Master Trust Indenture dated as of February 1, 2012 between the Transportation Board and the Trustee, and any supplement or amendment hereto.

**"Maturity Value"** means any amount defined as such in a Supplemental Indenture for purposes of determining the amount payable to the Owner of a Capital Appreciation Note at the maturity of such Capital Appreciation Note.

**"Memorandum of Agreement"** or **"MOA"** means the Memorandum of Agreement between FHWA and the Transportation Board, dated as of December 28, 2011, as supplemented or amended from time to time in accordance with the terms thereof.

**"New Money Notes"** means Notes issued for the purpose of financing the Projects.

**"Note Act"** means the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, Article 4, Chapter 15, Title 33.2 of the Code of Virginia.

**"Note Payment Date"** means each date on which Note Payments are due and includes, but is not limited to, the maturity date of any Note; each Interest Payment Date for each Current Interest Note; and the mandatory sinking fund redemption dates of term Notes that are subject to mandatory sinking fund redemption in accordance with a mandatory sinking fund redemption schedule set forth in a Supplemental Indenture.

**"Note Payments"** means (i) with respect to a Current Interest Note, the interest due on such Note on each Interest Payment Date and the principal, redemption premium, if any, and interest due on such Note at maturity or on the redemption date; (ii) with respect to a Capital Appreciation Note, the Maturity Value due on such Note at maturity; (iii) with respect to term Notes that are subject to mandatory sinking fund redemption in accordance with a schedule set forth in a Supplemental Indenture, the principal, redemption premium, if any, and interest or the Accreted Value payable on such Notes on the date on which they are subject to mandatory sinking fund redemption in accordance with such schedule; and (iv) any amounts payable to the provider of a Credit Facility or an Interest Rate Exchange Agreement that are treated as Note Payments pursuant to clause (c) below.

For purposes of this definition:

(a) Note Payments due on any Interest Payment Date that are payable from accrued interest or capitalized interest held in the Debt Service Fund pursuant to the Master Indenture will be excluded in determining the amount of Note Payments due in the Federal Fiscal Year in which such Interest Payment Date occurs for

purposes of determining the amount of Federal Highway Reimbursements for which Federal Aid Agreements are to be in force and effect pursuant to the Master Indenture.

(b) If any Notes bear interest at an adjustable or variable interest rate such that the Note Payments due in a Federal Fiscal Year or on a Note Payment Date cannot be determined with certainty on the date on which Federal Highway Reimbursements are to be paid to the Trustee pursuant to the Master Indenture, the amount of interest included in the Note Payments due on such Notes in such Federal Fiscal Year or on such Note Payment Date shall be based on the interest rate estimated by the Transportation Board, or as stated in any Supplemental Indenture relating thereto.

(c) If the Transportation Board purchases or arranges for a Credit Facility or an Interest Rate Exchange Agreement with respect to any Notes pursuant to the Master Indenture, (i) moneys paid to the provider of the Credit Facility to reimburse the provider for moneys paid by the provider that are used to make Note Payments (as defined in (i) and (ii) of the first paragraph of this definition) and (ii) moneys paid to the provider of the Interest Rate Exchange Agreement may, if and to the extent provided in a Supplemental Indenture or in a separate agreement between the Transportation Board and the Credit Facility or Interest Rate Exchange Agreement provider entered into pursuant to the Master Indenture, be treated as Note Payments on the Notes to which the Credit Facility or Interest Rate Exchange Agreement relates.

(d) With respect to Balloon Indebtedness, there shall be excluded from Note Payments due in any period any principal installment of Balloon Indebtedness due in such period, whether at maturity or pursuant to mandatory redemption, if the Transportation Board has designated prior to the payment or redemption date available and unrestricted funds for such payment or redemption or has received a binding commitment from a recognized financial institution to refinance such principal on reasonable terms.

**"Notes"** means the Federal Transportation Grant Anticipation Revenue Notes authorized by the Act and the Master Indenture, and which are commonly referred to as "GARVEEs."

**"Obligation Authority"** means a limitation placed on Federal-aid highway program obligations to act as a ceiling on the obligation of contract authority that can be made within a specified time period, usually a fiscal year, regardless of the year in which the funds are authorized.

**"Opinion of Bond Counsel"** means a written opinion of Bond Counsel to the effect (which may be subject to customary assumptions and limitations) that (i) the additional Notes have been duly authorized, executed and delivered by the Transportation Board and are valid and binding special, limited obligations of the Transportation Board, payable from the sources provided in the Master Indenture and the applicable Supplemental Indenture; (ii) the Master Indenture and the applicable Supplemental Indenture create a valid pledge of and lien on the Trust Estate, subject to the terms thereof; and (iii) if the interest on the additional Notes is intended by the Transportation Board to be excludable from gross income for federal income tax purposes, interest on the additional Notes is excludable from gross income for federal income tax purposes.

**"Original Principal Amount"** means any amount defined as such in a Supplemental Indenture for purposes of determining certain rights of the Owner of, or certain other matters with respect to, a Capital Appreciation Note.

**"Outstanding"** means all Notes that have been executed and delivered, except:

(a) any Note on which all Note Payments due or to become due have been paid at maturity or earlier redemption;

(b) Notes in lieu of which other Notes have been executed and delivered pursuant to the provisions the Master Indenture or any Supplemental Indenture relating to the transfer and exchange of Notes or the replacement of mutilated, lost, stolen or destroyed Notes;

(c) Notes that have been canceled by the Trustee or that have been surrendered to the Trustee for cancellation;

(d) Notes on which all Note Payments is due and for which the Trustee holds moneys sufficient to pay the Note Payments for the benefit of the Owner thereof pursuant to the Master Indenture; and

(e) Notes that have been defeased pursuant to the Master Indenture.

**"Owner"** of a Note means the registered owner of such Note as shown in the registration records of the Trustee.

**"Payment Agreement"** means the Payment Agreement dated as of February 1, 2012, by and among the Transportation Board, the Treasury Board of the Commonwealth, and the Secretary of Finance of the Commonwealth.

**"Permitted Investments"** means with respect to the investment of any fund created under the Master Indenture, the following to the extent permitted by law:

(a) Defeasance Securities; and

(b) any other investments which are at the time legal investments for public funds of the type to be invested under Virginia law, including without limitation the Act and the Investment of Public Funds Act, Chapter 45, Title 2.2 of the Code of Virginia, as amended from time to time, or any successor provision of law.

**"Person"** means any natural person, firm, corporation, partnership, limited liability company, state, political subdivision of any state, other public body or other organization or association.

**"Principal"** or **"principal"** means (i) with respect to any Outstanding Current Interest Note, the principal amount due at maturity of such Note; (ii) with respect to any Outstanding Capital Appreciation Note, the Accreted Value of such Note as of the date on which the principal amount thereof is being determined; and (iii) with respect to all the Outstanding Notes together, the sum of the amounts determined pursuant to clauses (i) and (ii).

**"Program Costs"** means costs of the following types, including ongoing expenses of the type described in items (b), (c) and (d):

(a) financing costs, including, but not limited to, costs and expenses that an Authorized Board Representative deems necessary or advantageous in connection with the sale of the Notes and the administration of the Notes, the Trust Estate, the Master Indenture and any Supplemental Indenture, including, but not limited to, costs and expenses relating to the engagement of consultants, financial advisors, underwriters, bond insurers, letter of credit banks, rating agencies, attorneys, trustees, paying agents, registrars, remarketing or auction agents, other agents and other Persons in connection with the issuance of the Notes, the Trust Estate, the Master Indenture or any Supplemental Indenture;

(b) costs and expenses relating to any Credit Facility entered into in accordance with the Master Indenture, whether initial or ongoing costs and expenses, including the reimbursement of the provider of any Credit Facility as provided in the Master Indenture, unless the reimbursement is treated as a Note Payment pursuant to item (c) of the definition of Note Payments;

(c) payments, costs and expenses relating to any Interest Rate Exchange Agreement entered into in accordance with the Master Indenture, whether initial or ongoing payments, costs or expenses, unless such payments are treated as Note Payments pursuant to item (c) of the definition of Note Payments; and

(d) arbitrage rebate payments payable to the United States with respect to any of the Notes.

**"Project"** means any Qualified Federal Aid Transportation Project (i) that is designated by the Transportation Board from time to time, and (ii) with respect to which a Federal Aid Agreement is in full force and effect.

**"Project Fund"** means the Project Fund, a special fund created under the Master Indenture and the Act.

**"Project-Specific Reimbursements"** means the Federal Highway Reimbursements received by the Commonwealth from time to time only with respect to the Project or Projects to be financed by the Notes or any Series thereof.

**"Qualified Federal Aid Transportation Project"** means any project that may be financed, in whole or in part, with Federal Highway Reimbursements.

**"Rating Agency"** means, with respect to the Notes, each nationally recognized securities rating service that has, at the request of the Transportation Board, provided a rating then in effect for the unenhanced Notes.

**"Rating Confirmation"** means, with respect to the Notes, written evidence from a Rating Agency that no rating then in effect for unenhanced Notes from such Rating Agency will be withdrawn, reduced or suspended solely as a result of an action to be taken under the Master Indenture.

**"Refunding Notes"** means Notes issued for the purpose of refunding, and proceeds of which are used to refund, New Money Notes or other Refunding Notes.

**"Revenues"** means amounts, appropriated therefor by the General Assembly, as are required to pay Note Payments and Program Costs, as and when due and payable, (i) first from the Project-Specific Reimbursements; (ii) then, at the discretion of the Transportation Board, to the extent required, from legally available revenues of the Transportation Trust Fund, including without limitation Indirect Reimbursements deposited from time to time in the Federal Fund; and (iii) then from such other funds, if any, which are designated by the General Assembly for such purpose.

**"Series"** means the Notes designated as a separate series in a Supplemental Indenture and any Notes authenticated and delivered in lieu of or in substitution for such Notes pursuant to the Master Indenture or any Supplemental Indenture.

**"Seventh Supplemental Indenture"** means the Seventh Supplemental Trust Indenture dated as of September 1, 2020 between the Transportation Board and the Trustee.

**"Subordinated Obligation"** means any obligation, including without limitation any Note, which is secured on a subordinated basis by the lien of the pledge and security interest on the Revenues created under the Master Indenture and the payment of which is expressly subordinated in any manner to the payment of any other Notes or obligations secured Under the Master Indenture. Any such obligation shall be expressly designated as a "Subordinated Obligation" in the Supplemental Indenture or other instrument providing for its issuance or incurrence.

**"Supplemental Indenture"** means any indenture supplementing or amending the Master Indenture that is adopted pursuant to the Master Indenture.

**"Title 23"** means Chapter 1 of Title 23, United States Code, Highways, as amended and supplemented from time to time and any successor or replacement provision of law.

**"Transfer Date"** means (i) each date that is five days prior to any Note Payment Date on the Notes or (ii) each date any deposit to the Debt Service Fund or other deposit or payment is due to be made to the Trustee under the Master Indenture.

**"Transportation Trust Fund"** means the Transportation Trust Fund established pursuant to Section 33.2-1524 of the Code of Virginia.

**"Trustee"** means U.S. Bank National Association, a national banking association, acting in its capacity as trustee under the Master Indenture, and any successor thereto appointed under the Master Indenture.

**"Trust Estate"** means the property granted to the Trustee, described in the granting clauses of the Master Indenture as follows: (i) the Revenues; and (ii) all money from time to time held by the Trustee under the Master

Indenture or any Supplemental Indenture in any fund or account other than (i) any Defeasance Escrow Account, and (b) any fund or account created by a Supplemental Indenture that is expressly excluded from the Trust Estate.

**"2020 Notes"** means the Commonwealth Transportation Board Federal Transportation Grant Anticipation Revenue Notes, Series 2020 that are authorized by the Seventh Supplemental Indenture.

**"2020 Notes COI Account"** means the account by that name in the Project Fund established under the Seventh Supplemental Indenture.

**"2020 Project"** means the Project described in Appendix B to the Seventh Supplemental Indenture to be financed with the proceeds of the 2020 Notes.

**"VDOT Funding Account"** means the account by that name in the Project Fund established under the Seventh Supplemental Indenture.

## **THE INDENTURE**

The 2020 Notes are being issued pursuant to the Master Indenture and the Seventh Supplemental Indenture. The 2020 Notes will be the seventh Series of Notes issued under the Master Indenture and will be equally and ratably secured by the Indenture with the first Series of Notes and any other additional subsequent Series of Notes, without preference, priority or distinction.

The following, in addition to the information presented in the sections *"The 2020 Notes"* and *"Sources Of Payment and Security for the GARVEE Notes"* in this Official Statement, summarizes certain provisions of the Indenture. This summary does not purport to be comprehensive or definitive and is qualified by references to the Indenture in its entirety, copies of which may be obtained at the offices of the Transportation Board or the Trustee.

### **Pledge of Trust Estate; Parity of Pledge; Limited Obligation**

The Transportation Board, pursuant to the Master Indenture and any Supplemental Indenture, pledges to the Owners of the Notes the Trust Estate. The Trust Estate shall be held by the Trustee for the equal and proportionate benefit of the Owners of all Outstanding Notes, and any of them, without preference, priority or distinction as to lien or otherwise, except as expressly set forth in the Master Indenture or any Supplemental Indenture.

The Note Payments and Program Costs shall be payable solely from Revenues and moneys held in the Debt Service Fund or other funds and accounts pledged or described under the Master Indenture. The Owners and holders of the Notes may not look to any other revenues of the Transportation Board or the Commonwealth for the payment of the Notes. All financial obligations of the Transportation Board under the Master Indenture, every Supplemental Indenture, the Notes and any other contract entered into pursuant to the Master Indenture, any Supplemental Indenture or the Notes or otherwise pursuant to the Act, including without limitation Note Payments and Program Costs, (i) are special, limited obligations of the Transportation Board payable solely from the Trust Estate, and (ii) shall not be deemed or construed as creating debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth within the meaning of the Virginia Constitution or the laws of the Commonwealth concerning or limiting the creation of indebtedness by the Commonwealth.

The Master Indenture constitutes a contract authorized by the Act among the Transportation Board, the Trustee, and the Owners from time to time of the Notes and the pledge, covenants and agreements of the Transportation Board set forth in the Master Indenture are for the equal and ratable benefit, protection and security of the Owners of any and all of the Notes, all of which, regardless of maturity, shall be of equal rank without preference, priority or distinction of any of such Notes over any other thereof, except as expressly provided in or permitted by the Master Indenture.

### **Issuance of Notes**

Notes may be issued under the Master Indenture for the purpose of financing the Projects or refunding Notes that were issued to finance the Projects or other Refunding Notes.

## Conditions to Issuance of Notes

No Series of Notes may be issued unless each of the conditions applicable thereto under the Master Indenture and any applicable Supplemental Indenture have been satisfied, including the following (i) until all Note Payments and Program Costs are paid in full and while any Notes (other than Notes constituting Subordinated Obligations) are Outstanding, no bonds, notes, debentures or other obligations shall be issued or incurred or create a lien on the Revenues prior and superior to the lien created under the Master Indenture for the benefit of the initial Series of Notes, (ii) the Trustee shall have received an Opinion of Bond Counsel, (iii) a Federal Aid Agreement shall have been entered into providing for the authorization of the Project or Projects to be financed or refinanced with the Series of Notes to be issued, and (iv) an Authorized Board Representative and the Trustee shall have entered into a Supplemental Indenture authorizing the issuance of the additional Series of Notes.

***Additional Conditions to the Issuance of New Money Notes.*** Before any New Money Notes are issued a certificate of an Authorized Board Representative to the effect that, as of the date of issuance of such Series:

(1) (i) There exists no Event of Default; or (ii) if there exists an Event of Default, the Event of Default will be cured upon the issuance of the additional Notes and the application of the proceeds of the additional Notes in accordance with the Supplemental Indenture authorizing the issuance of the additional Notes.

(2) There is compliance with all applicable provisions of Title 23 and any other applicable law necessary on the date of the delivery of a Series of Notes to receive and continue to receive Federal Highway Reimbursements for the payment of the Notes pursuant to Title 23 without penalty.

(3) The amount of Federal Highway Reimbursements to be received and actually received, if that is the case, as shown in a certificate of an Authorized Board Representative, in either the Federal Fiscal Year in which the proposed Series of Notes are to be issued or in the immediately preceding Federal Fiscal Year, shall have been sufficient to pay an amount representing at least 4.00 times the sum of (i) the maximum combined annual Note Payments of all Outstanding Notes (other than Notes constituting Subordinated Obligations) and the Series of Notes proposed to be issued (unless such Notes are Subordinated Obligations) and (ii) any payments to be paid in such year for Program Costs.

***Additional Conditions to the Issuance of Refunding Notes.*** Before any Series of Notes constituting Refunding Notes are issued, all of the following additional conditions shall be satisfied:

(1) The Notes to be refunded are defeased in accordance with the Master Indenture.

(2) If any of the Notes to be refunded are to be redeemed prior to their scheduled maturity date, an Authorized Board Representative has directed the Trustee to deliver redemption notices and to redeem the Notes to be refunded in accordance with the provisions of the Master Indenture and any applicable provisions of any Supplemental Indenture.

(3) FHWA has agreed, through modification of the related Federal Aid Agreements or otherwise, that Federal Highway Reimbursements will be paid with respect to the Note Payments on the Refunding Notes.

## Creation of Funds

The Master Indenture establishes the Debt Service Fund and the Project Fund to be held by the Trustee for the benefit of the Owners as specified in the Master Indenture, subject to the terms thereof and any Supplemental Indenture.

***Debt Service Fund.*** The Trustee shall create and maintain separate accounts within the Debt Service Fund for each Series of Notes issued under the Master Indenture. Moneys in the Debt Service Fund are to be used to pay the principal or purchase price of and redemption premium, if any, and interest on Notes then Outstanding, to redeem or purchase Notes and to make payments under any applicable Credit Facility.

***Flow of Funds from Federal Fund to Debt Service Fund.*** Not later than the last day of each month, the Transportation Board shall transfer from the Federal Fund to the Trustee for deposit in each account of the Debt



Service Fund the amount provided for such month pursuant to the respective Supplemental Indenture. The Transportation Board shall cause each Project-Specific Reimbursement to be transferred upon receipt in the Federal Fund to the appropriate account of the Debt Service Fund. The Trustee shall return to the Transportation Board for re-deposit in the Federal Fund all Indirect Reimbursements in such account to the extent the Project-Specific Reimbursement is sufficient to make the corresponding Note Payment on the Notes. Each month, any remaining Indirect Reimbursements in the Federal Fund may be applied to pay Program Costs, to reimburse Expenditures or to any other purpose permitted by law.

If and to the extent an account in the Debt Service Fund does not contain Federal Highway Reimbursements in an amount sufficient to pay the next ensuing Note Payment ten days before the Note Payment Date, the Trustee shall notify the Transportation Board and the Transportation Board will, subject to appropriation by the General Assembly, pay or cause to be paid to the Trustee from Revenues an amount sufficient to make the Note Payment pursuant to the Payment Agreement within 24 hours after the receipt of such notice.

***Project Fund.*** The Trustee shall create and maintain separate accounts within the Project Fund to account for the receipt and disbursement of proceeds of each Series of Notes, but such separate accounts shall not, unless otherwise specifically provided by Supplemental Indenture, affect the rights of the Owners of the Notes with respect to moneys in the Project Fund. There shall be deposited into the appropriate account of the Project Fund, proceeds of each Series of Notes as provided in the applicable Supplemental Indenture. So long as no Event of Default then exists, moneys held in the Project Fund shall be disbursed to or upon the direction of the Transportation Board to pay Costs upon receipt of a requisition signed by an Authorized Board Representative.

*2020 Notes COI Account and VDOT Funding Account and Certain Subaccounts; Exclusion from Trust Estate.* The Seventh Supplemental Indenture establishes in the Project Fund two accounts to be called the “2020 Notes COI Account” and the “VDOT Funding Account.” On the issuance date of the 2020 Notes, the Transportation Board shall cause to be deposited the proceeds from the sale of the 2020 Notes into the 2020 Notes COI Account and the VDOT Funding Account. Pursuant to the Seventh Supplemental Indenture, as permitted by the Master Indenture, the 2020 Notes COI Account and the VDOT Funding Account, and any money or investments held therein shall not be part of the Trust Estate.

### **Security for Deposits; Investment of Funds**

All moneys held as part of any fund or account created under the Master Indenture shall be deposited or invested and reinvested by the Trustee, at the written direction of an Authorized Board Representative, in Permitted Investments. The Trustee shall, when and as directed by an Authorized Board Representative, sell and reduce to cash a sufficient amount of the investments held in any fund or account whenever the cash balance therein is insufficient to make any payment to be made therefrom. In computing the amount in any fund or account for any purpose under the Master Indenture, investments shall be valued at cost (exclusive of accrued interest) or par, whichever is less.

### **Indenture Covenants Concerning Federal Highway Reimbursements**

In the Master Indenture, the Transportation Board makes certain covenants related to the Projects and Federal Highway Reimbursements, including but not limited to the following:

***Qualification of Projects and Federal Aid Agreements.*** To the extent permitted by law, the Transportation Board covenants that it will take all action necessary to ensure that (i) each Project at all times qualifies as a Qualified Federal Aid Transportation Project; (ii) each Project that may be financed, in whole or in part, with Federal Highway Reimbursements paid pursuant to Title 23, at all times qualifies as a project with respect to which the Transportation Board is entitled to reimbursement of previously-expended funds under 23 U.S.C. Section 115, as amended, and the regulations promulgated thereunder (or any successor provision thereto); and (iii) Federal Aid Agreements are maintained in full force and effect pursuant to which FHWA has agreed to make payments of Project-Specific Reimbursements with respect to the Note Payments due on each Note Payment Date. Such action shall include, but shall not be limited to (i) entering into any modification of a Federal Aid Agreement required to assure that Federal Highway Reimbursements payable thereunder are payable with respect to any Refunding Notes; and (ii) the repayment to FHWA, from moneys other than moneys included in the Trust Estate, of any Federal

Highway Reimbursements paid pursuant to a Federal Aid Agreement during any period in which the Project did not qualify under clause (i) or (ii) above.

***Application for Federal Highway Reimbursements.*** To the extent permitted by law, the Transportation Board covenants that it will annually apply for, and reasonably cooperate with FHWA in order to receive, the greatest amount of Federal Highway Reimbursements reasonably available to the Commonwealth that will become Revenues for payment of the principal of and interest on the Note Payments, any Program Costs and the debt service on any Subordinated Obligations.

***Requests for Obligation Authority.*** For each of the Federal Fiscal Years during which Notes are or will be Outstanding, (i) as soon as practicable prior to or in such Federal Fiscal Year the Transportation Board will request Obligation Authority sufficient to pay the principal of and interest on the Note Payments and any Program Costs coming due in that Federal Fiscal Year, and (ii) the Transportation Board will obligate (to the extent not previously obligated) FHWA to pay Federal Highway Reimbursements sufficient to pay the principal of and interest on the Note Payments and any Program Costs coming due in that Federal Fiscal Year prior to obligating Federal Highway Reimbursements for any other purpose. Additionally, the Transportation Board covenants that all Notes are, or will be, eligible debt financing instruments under Title 23 and the payment of Note Payments and Program Costs are all eligible for payment or reimbursement from Federal Highway Reimbursements.

***Construction of Projects.*** The Transportation Board covenants to ensure that each Project will be constructed expeditiously. Upon completion of construction for each Project, the Transportation Board will take all steps necessary to obtain any required approval of FHWA of such Project so that the Transportation Board may receive the maximum amount of Project-Specific Reimbursements with respect thereto.

***General Assembly Appropriations.*** The Transportation Board, pursuant to the Payment Agreement, will utilize its best efforts to have included in each Commonwealth appropriations act an appropriation for any amounts required for Note Payments and Program Costs coming due during the period covered by each such act; provided, however, and notwithstanding any provision of the Master Indenture which may be to the contrary, no failure of the General Assembly to include in any appropriation act an appropriation for any amounts required for Note Payments and Program Costs coming due during the period covered by such act shall constitute an Event of Default under the Master Indenture.

### **Remedies Upon Default**

Upon the occurrence of any Event of Default (other than such an Event of Default relating to payment of Notes constituting Subordinated Obligations), the Trustee shall, without further demand or notice, transfer such amount of moneys held in the Project Fund as is necessary and available to the Debt Service Fund. Further, upon the occurrence of any Event of Default, the Trustee may (i) proceed by mandamus or other action or proceeding or suit at law or in equity to enforce any rights under the Master Indenture against the Transportation Board and compel the Transportation Board to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained in the Master Indenture, and (ii) take whatever action at law or in equity may appear necessary or desirable to enforce the rights of the Owners and shall deposit any moneys received as a result of such action in the Debt Service Fund.

Notwithstanding any other provision of the Master Indenture which may be to the contrary, neither the Trustee, any Owner of a Note, any provider of a Credit Facility, any provider of an Interest Rate Exchange Agreement nor any holder of any Subordinated Obligation shall have the right to declare any Note Payments or other payments to be immediately due and payable upon the occurrence of an Event of Default. A judgment requiring a payment of money entered against the Transportation Board arising under the Master Indenture may be satisfied only from the Trust Estate.

### **Application of Moneys After Default**

Moneys received by the Trustee resulting from the exercise of remedies following an Event of Default shall be deposited in the Debt Service Fund and shall, together with other moneys in the Debt Service Fund and other moneys available for such purpose, be applied in the following order of priority:

*First*, to the payment of the reasonable and proper fees and expenses of the Trustee determined in accordance with the Master Indenture.

*Second*, to the payment of (i) interest due on the Notes (other than Notes constituting Subordinated Obligations), including interest on past due interest on any Note at the interest rate borne by such Note, compounded on each Interest Payment Date, (ii) the interest component of any unpaid draws on a Credit Facility that are treated as Note Payments and (iii) any unpaid regularly scheduled payments (but excluding any termination payments or settlement amounts) that are treated as Note Payments. If more than one installment of interest is due on such Notes, such installments shall be paid in the order in which they were due, with the first installment being paid first. If more than one draw is unpaid on a Credit Facility or more than one regularly scheduled payment is unpaid under an Interest Rate Exchange Agreement, such amounts shall also be repaid in the order in which they were originally due. If the amount available is insufficient to pay all of any particular installment of interest due on such Notes, unpaid draw on a Credit Facility or unpaid regularly scheduled payment under an Interest Rate Exchange Agreement (including interest on the past due amounts), the amount available shall be paid ratably, based on the ratio of the amount due as interest on each such Note, to each such provider of a Credit Facility or to each provider of an Interest Rate Exchange Agreement to the total amount due.

*Third*, to the payment of (i) principal due on the Notes (other than Notes constituting Subordinated Obligations) (ii) the principal component of any unpaid draws on a Credit Facility that are treated as Note Payments and (iii) any unpaid termination payments or settlement amounts (but excluding any regularly scheduled payments) that are treated as Note Payments. If any of such amounts is due that was to have been paid on more than one date, the amount due on the earliest dates shall be paid first. If the amount available is insufficient to pay all such amounts due on any particular date, the amount available shall be paid ratably, based on the ratio of the amount due on each such Note, to each such provider of a Credit Facility or to each such provider of an Interest Rate Exchange Agreement to the total amount due.

After payment of all amounts set forth above, the amount remaining in the Debt Service Fund, if any, will be applied to the payment of any Subordinated Obligations, in the manner and priority set forth in such Subordinated Obligations.

### **Control of Proceedings**

Notwithstanding any other provision of the Master Indenture, the Owners of a majority in aggregate principal amount of Notes Outstanding (but not including Notes constituting Subordinated Obligations so long as any senior Notes are Outstanding) shall always have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in pursuit of remedies following an Event of Default or otherwise in connection with the enforcement of the terms of the Master Indenture.

### **Individual Noteholder Action Restricted**

No Owner shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any remedy under the Master Indenture or for the enforcement of the terms thereof, unless an Event of Default under the Master Indenture has occurred and the Owners of not less than a majority of the Notes Outstanding (but not including Notes constituting Subordinated Obligations) have made a written request to the Trustee, have agreed to indemnify the Trustee as provided in the Master Indenture and have given the Trustee a reasonable opportunity to take such action in its capacity as Trustee, but the Trustee has failed to take such action. The purpose of the preceding sentence is to assure that no Owner or Owners shall have the right to affect, disturb or prejudice the lien of the Master Indenture by his, her, its or their action or to enforce any right under the Master Indenture except in the manner provided in the Master Indenture and that all proceedings at law or in equity shall be instituted and maintained in the manner provided in the Master Indenture and for the equal benefit of the Owners of all Outstanding Notes. Nothing contained in the Master Indenture shall, however, affect or impair the right of any Owner to enforce the payment of the Note Payments on any Note at and after the date such payment is due.

### **Waiver of Event of Default**

The Trustee may in its discretion waive any Event of Default and its consequences under the Master Indenture, and notwithstanding anything else to the contrary contained in the Master Indenture shall do so upon the written request of the Owners of a majority in aggregate principal amount of the Notes then Outstanding (but not including Notes constituting Subordinated Obligations); provided, however, that there shall not be waived without the consent of the Owners of 100% of the aggregate principal amount of Notes then Outstanding any Event of Default in the payment of the Note Payments when due, unless, prior to such waiver, all such amounts (with interest on amounts past due on any Note at the interest rate on such Note or, in the case of a Capital Appreciation Note, the interest rate determined by straight-line interpolation between Accretion Dates) and all expenses of the Trustee in connection with such Event of Default have been paid or provided for. In case of any such waiver, then and in every such case the Transportation Board, the Trustee and the Owners shall be restored to their former positions and rights under the Master Indenture, but no such waiver shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

### **Removal and Resignation of Trustee; Successor Trustee**

The Trustee may resign by giving 60 days' written notice to the Transportation Board. Such resignation shall take effect only upon the appointment of a successor qualified as provided in the Master Indenture. If no successor is appointed within 60 days following the date designated in the notice, the resigning Trustee may petition a court of competent jurisdiction for the appointment of a successor. The Trustee may be removed at any time (i) by the Transportation Board, provided that the Trustee may not be removed during the pendency of an Event of Default without the written consent of the Owners of a majority in aggregate principal amount of Notes then Outstanding; or (ii) by an instrument in writing executed by the Owners of a majority in aggregate principal amount of Notes Outstanding, for any reason or for no reason.

In case the Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be appointed by the Transportation Board. Upon making any such appointment, an Authorized Board Representative shall give notice thereof to each Owner. Subject to the provisions of the Master Indenture, any successor Trustee appointed by an Authorized Board Representative pursuant to the Master Indenture shall be removed by the Transportation Board if the Owners of a majority in aggregate principal amount of Notes then Outstanding object to the appointment within 60 days following the date of the Transportation Board's notice of the appointment of such successor. If the Owners of a majority in aggregate principal amount of Notes then Outstanding object to the appointment of a successor Trustee pursuant to the Master Indenture, the Transportation Board shall appoint another successor Trustee and the Owners shall have the same right to object to the new successor Trustee.

### **Consolidation, Conversion or Merger of Trustee**

Any bank or trust company that otherwise meets the requirements set forth in the Master Indenture into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business as a whole shall be the successor of the Trustee under the Master Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties to the Master Indenture.

### **Supplemental Indentures Not Requiring Consent of Owners**

The Transportation Board and the Trustee may, without the consent of, or notice to, the Owners, enter into a Supplemental Indenture for any one or more or all of the following purposes:

- (a) to add additional covenants to the covenants and agreements of the Transportation Board set forth in the Master Indenture;
- (b) to add additional revenues, properties or collateral to the Trust Estate;

(c) to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in the Master Indenture;

(d) to amend any existing provision of the Master Indenture or to add additional provisions which, in the opinion of Bond Counsel, are necessary or advisable (i) to qualify, or to preserve the qualification of, the interest on any Notes for exclusion from gross income for federal income tax purposes or for exclusion from federal alternative minimum tax; (ii) to qualify any Notes for exemption from taxation and assessment in the Transportation Board; (iii) to qualify, or to preserve the qualification of, the Master Indenture or any Supplemental Indenture under the federal Trust Indenture Act of 1939, as amended; or (iv) to qualify, or preserve the qualification of, any Notes for an exemption from registration or other limitations under the laws of any state or territory of the United States;

(e) to provide for or eliminate book-entry registration of any of the Notes;

(f) to obtain or maintain a rating of the Notes by a nationally recognized securities rating agency;

(g) to authorize the issuance of any Series of Notes in accordance with the Master Indenture;

(h) to facilitate the provision of a Credit Facility or an Interest Rate Exchange Agreement in accordance with the Master Indenture and the treatment of reimbursements or payments thereunder as Note Payments;

(i) to facilitate the receipt or use of Federal Highway Reimbursements that will become Revenues to pay Note Payments, Program Costs or Subordinated Obligations;

(j) to establish additional funds, accounts or subaccounts necessary or useful in connection with any Supplemental Indenture;

(k) to authorize the issuance of notes or other obligations secured by a pledge of the Trust Estate expressly subordinate to the pledge thereof in favor of the Notes and, in connection therewith, specify and determine (or provide procedures for an Authorized Board Representative to specify or determine) the matters and things required or permitted by the Master Indenture in connection therewith, and also any other matters and things relative to such Subordinated Obligations which are not contrary to or inconsistent with the Master Indenture;

(l) to make any amendment, with Rating Confirmation from each Rating Agency, that such amendment will not, in itself, result in the uninsured, underlying rating on the Notes following such amendment being lower than such rating on the Notes immediately prior to such amendment;

(m) to modify any of the provisions in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Notes of each Series Outstanding at the date of the adoption of such Supplemental Indenture shall cease to be Outstanding and (ii) such Supplemental Indenture shall be specifically referred to in the text of all Notes of any Series authenticated and delivered after the date of the adoption of such Supplemental Indenture and of Notes issued in exchange therefor or in place thereof;

(n) to make any amendment required to comply with any continuing disclosure undertaking or obligation applicable to any of the Notes; or

(o) for any other purpose, provided that Bond Counsel has delivered a written opinion stating that the provisions of the Supplemental Indenture do not materially adversely affect the rights of the Owners of any Notes.

### **Supplemental Indentures Requiring Consent of Owners**

Except as expressly provided in the Master Indenture, the Transportation Board and the Trustee may not enter into a Supplemental Indenture without the written consent of the Owners of not less than a majority of the aggregate principal amount of Notes then Outstanding (but not including Notes constituting Subordinated Obligations);

provided, however, that no Supplemental Indenture containing any of the provisions described below may be entered into without the written consent of the Owner of each Note affected thereby:

- (a) a reduction of the interest rate or Note Payments payable on any Note, a change in the maturity date of any Note, a change in the Original Principal Amount of any Capital Appreciation Note, a change in any Interest Payment Date for any Current Interest Note or any Accretion Date for any Capital Appreciation Note or a change in the redemption provisions applicable to any Note;
- (b) the deprivation of an Owner to the lien on the Trust Estate granted in the Master Indenture;
- (c) the creation of a priority right in the Trust Estate of another Note over the right of the affected Note, except as permitted in the Master Indenture; or
- (d) a reduction in the percentage of the aggregate principal amount of Notes then Outstanding whose Owners are required to consent to any Supplemental Indenture.

### **Discharge of Master Indenture**

If 100% of the Note Payments due, or to become due, on all the Notes, the fees and expenses due to the Trustee and all other amounts payable under the Master Indenture have been paid, or provision shall have been made for the payment thereof in accordance with the Master Indenture, then (i) the right, title and interest of the Trustee in and to the Trust Estate shall terminate and be discharged; (ii) the Trustee shall transfer and convey to or to the order of the Transportation Board all excess property that was part of the Trust Estate, including but not limited to any moneys held in any fund or account under the Master Indenture, except any escrow account created pursuant to the Master Indenture (which escrow account shall continue to be held in accordance with the agreement governing the administration thereof); and (iii) the Trustee shall execute any instrument requested by the Transportation Board to evidence such discharge, transfer and conveyance.

### **Defeasance of Notes**

All or any portion of the Outstanding Notes shall be deemed to have been paid (referred to herein as "defeased") prior to their maturity or earlier redemption if:

- (a) the defeased Notes are to be redeemed prior to their maturity, an Authorized Board Representative has irrevocably instructed the Trustee to give notice of redemption of such Notes in accordance with the Master Indenture and any applicable Supplemental Indenture;
- (b) there has been deposited in trust in a Defeasance Escrow Account either (i) money in an amount which shall be sufficient, or (ii) Defeasance Securities, the principal of and the interest on which when due, without any reinvestment thereof, will provide moneys which, together with the money, if any, deposited into or held in the Defeasance Escrow Account, shall be sufficient, to pay when due the Note Payments due and to become due on the defeased Notes on and prior to the redemption date or maturity date thereof, as the case may be; and
- (c) a certified public accountant or other verification agent acceptable to the Transportation Board and the Trustee has delivered a verification report verifying the deposit described in clause (2) above.

### **Applicable Law**

The laws of the Commonwealth shall be applied in the interpretation, execution and enforcement of the Master Indenture.

## **THE PAYMENT AGREEMENT**

In addition to the information presented in the section "*Sources of Payment and Security for the GARVEE Notes*" in this Official Statement the following summarizes certain provisions of the Payment Agreement. This summary does not purport to be comprehensive or definitive and is qualified by reference to the Payment Agreement in its entirety, copies of which may be obtained at the office of the Treasury Board, the Trustee or the Transportation Board.

### **Obligations of the Transportation Board**

Under the Payment Agreement, the Transportation Board is obligated to do the following:

(a) Each year and in accordance with the schedule of the Department of Planning and Budget of the Commonwealth, the Transportation Board or the Transportation Board's designee shall request that the Governor include in the budget to be delivered to the General Assembly during their next session a provision that there be appropriated Revenues sufficient to pay the Principal and Interest Requirements coming due on the GARVEE Notes and all other amounts required to be paid under the Master Indenture during the next succeeding FY or biennial period, as applicable.

(b) The Transportation Board shall use its best efforts to have (i) the Governor include, in each biennial or any supplemental budget that is presented to the General Assembly, the amounts described in (a) above and (ii) the General Assembly appropriate and reappropriate, as applicable, such amounts.

(c) The Transportation Board shall provide to the Treasury Board, as and when reasonably requested by the Treasury Board, all requisitions and documents and shall take all actions necessary to have paid to the Treasury Board from Revenues appropriated as described in (a) above all amounts due under the Payment Agreement and to direct the Treasury Board to make from such funds all payments due under the Master Indenture to the Trustee not later than the respective Transfer Date.

(d) The Transportation Board shall take all actions necessary to have payments which are made pursuant to (c) above charged against the proper appropriation made by the General Assembly.

(e) The Transportation Board shall notify the Treasury Board, the Secretary of Finance, and the Trustee promptly upon becoming aware of any failure by the General Assembly to appropriate for the next succeeding FY or biennial period, as applicable, amounts sufficient to pay all debt service on the GARVEE Notes coming due or expected to come due and all other amounts required to be paid under the Master Indenture coming due or expected to come due.

### **Obligations of the Treasury Board**

Under the Payment Agreement, the Treasury Board is obligated to do the following:

(a) The Treasury Board shall use its best efforts to have (i) the Governor include in each biennial or any supplemental budget of the Commonwealth Revenues sufficient to pay the Note Payments coming due on the GARVEE Notes and all other amounts required to be paid under the Master Indenture during the next succeeding FY or biennial period, as applicable, and (ii) the General Assembly appropriate and reappropriate, as applicable, such amounts.

(b) The Treasury Board shall use its best efforts to obtain each year the appropriate requisitions and documents needed from the Transportation Board to make all payments due under the Master Indenture to the Trustee not later than the respective Transfer Date.

(c) The Treasury Board shall make all payments described in the Payment Agreement solely from moneys appropriated or reappropriated by the General Assembly.

(d) The Treasury Board shall notify the Transportation Board, the Secretary of Finance, and the Trustee promptly upon becoming aware of any failure by the General Assembly to appropriate for the next

succeeding FY or biennial period, as applicable, amounts sufficient to pay all Note Payments coming due or expected to come due on the GARVEE Notes and all other amounts required to be paid under the Master Indenture coming due or expected to come due.

#### **Obligations of the Secretary of Finance**

Under the Payment Agreement, the Secretary of Finance is obligated to use his best efforts to have (i) the Governor include in each biennial or any supplemental budget of the Commonwealth Revenues sufficient to pay the Note Payments coming due on the GARVEE Notes and all other amounts required to be paid under the Master Indenture during the next succeeding FY or biennial period, as applicable, and (ii) the General Assembly deposit, appropriate and reappropriate, as applicable, such amounts.

The Commonwealth's budgetary process, to which the Payment Agreement provisions relate, is described in the subsection "*Budgetary Process*" within the section "*Financial Factors*" in Appendix C, "*Commonwealth of Virginia, Financial and Other Information.*"

#### **Trustee as Third Party Beneficiary**

The Trustee is a third party beneficiary of the Payment Agreement and is entitled to enforce, on behalf of the holders of the GARVEE Notes, all of the obligations of the Transportation Board and the obligations and the rights of the parties thereto to the same extent as if the Trustee were one of the contracting parties.

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**COMMONWEALTH OF VIRGINIA  
FINANCIAL AND OTHER  
INFORMATION**

**APPENDIX C**

**COMMONWEALTH OF VIRGINIA  
DEMOGRAPHIC AND ECONOMIC  
INFORMATION**

**APPENDIX D**

**COMMONWEALTH OF VIRGINIA  
FINANCIAL STATEMENTS OF THE COMMONWEALTH  
FOR THE YEAR ENDED JUNE 30, 2019**

**APPENDIX E**

**FORM OF BOND COUNSEL OPINION**

**APPENDIX F**

**CONTINUING DISCLOSURE UNDERTAKINGS OF THE COMMONWEALTH  
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## **APPENDIX G**

### **BOOK-ENTRY-ONLY SYSTEM**

## APPENDIX G

### Book-Entry-Only System

*The description that follows of the procedures and record keeping with respect to beneficial ownership interests in the 2020 Notes, payments of principal and interest on the 2020 Notes to DTC, its nominee, Direct Participants, as hereinafter defined, Indirect Participants, as hereinafter defined, or Beneficial Owners, as hereinafter defined, confirmation and transfer of beneficial ownership interest in the 2020 Notes and other bond-related transactions by and between DTC, Direct Participants, Indirect Participants and Beneficial Owners is based solely on information furnished by DTC and is not, and should not be construed as, a representation by the Transportation Board as to its accuracy, completeness or otherwise.*

DTC will act as securities depository for the 2020 Notes. The 2020 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 note certificate will be issued for each maturity of the 2020 Notes and will be deposited with DTC.

DTC, the world's largest securities 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 3,500,000 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 ("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 a S&P rating of AA+. The DTC Rules applicable to its Direct Participants and Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the 2020 Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2020 Notes on DTC's records. The ownership interest of each actual purchaser of each 2020 Note ("Beneficial Owner") is in turn to be recorded on the Direct Participants and Indirect Participants' records. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct Participant or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2020 Notes are to be accomplished by entries made on the books of the Direct Participants and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the 2020 Notes, except in the event that use of the book-entry system for the 2020 Notes is discontinued.

To facilitate subsequent transfers, all 2020 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 2020 Notes with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2020 Notes; DTC's records reflect only the identity of the Direct Participants to whose accounts the 2020 Notes are credited, which may or may not be the Beneficial Owners. The Direct Participants and Indirect Participants will remain responsible for keeping account of their holdings 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.

Redemption notices shall be sent to DTC. If less than all of the 2020 Notes are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant of the 2020 Notes to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the 2020 Notes unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an omnibus proxy (the "Omnibus Proxy") to the Trustee 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 2020 Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

BECAUSE DTC IS TREATED AS THE OWNER OF THE 2020 NOTES FOR SUBSTANTIALLY ALL PURPOSES UNDER THE INDENTURE, BENEFICIAL OWNERS MAY HAVE A RESTRICTED ABILITY TO INFLUENCE IN A TIMELY FASHION REMEDIAL ACTION OR THE GIVING OR WITHHOLDING OF REQUESTED CONSENTS OR OTHER DIRECTIONS. IN ADDITION, BECAUSE THE IDENTITY OF BENEFICIAL OWNERS IS UNKNOWN TO THE TRANSPORTATION BOARD, THE COMMONWEALTH OR DTC, IT MAY BE DIFFICULT TO TRANSMIT INFORMATION OF POTENTIAL INTEREST TO BENEFICIAL OWNERS IN AN EFFECTIVE AND TIMELY MANNER. BENEFICIAL OWNERS SHOULD MAKE APPROPRIATE ARRANGEMENTS WITH THEIR BROKER OR DEALER REGARDING DISTRIBUTION OF INFORMATION REGARDING THE 2020 NOTES THAT MAY BE TRANSMITTED BY OR THROUGH DTC.

Principal and interest payments on the 2020 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 Transportation Board or Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Direct Participants and Indirect 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 Direct Participant or Indirect Participant and not of DTC, the Trustee or the Transportation Board, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Transportation Board or the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct Participants and Indirect Participants. THE TRANSPORTATION BOARD AND THE COMMONWEALTH CAN GIVE NO ASSURANCES THAT DIRECT PARTICIPANTS AND INDIRECT PARTICIPANTS WILL PROMPTLY TRANSFER PAYMENT TO BENEFICIAL OWNERS.

So long as Cede & Co. is the registered owner of the 2020 Notes, as nominee of DTC, references herein to the 2020 Note owners or registered owners of the 2020 Notes shall mean Cede & Co. and shall not mean the Beneficial Owners of the 2020 Notes.

DTC may discontinue providing its services as securities depository with respect to the 2020 Notes at any time by giving reasonable notice to the Transportation Board or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, 2020 Note certificates are required to be printed and delivered.

The Transportation Board may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, 2020 Note certificates will be printed and delivered.

The foregoing information concerning DTC and DTC's book-entry system set forth above has been obtained from DTC. Neither, the Transportation Board, the Commonwealth nor the Trustee makes any representation or warranty regarding the accuracy or completeness thereof.

**So long as Cede & Co., as nominee for DTC, is the sole noteholder of the 2020 Notes, the Transportation Board and the Trustee shall treat Cede & Co. as the only noteholder of the 2020 Notes for all purposes under the Indenture, including receipt of all principal of and interest on the 2020 Notes, receipt of notices, voting**

**and requesting or directing the Transportation Board and the Trustee to take or not to take, or consenting to, certain actions under the Indenture.**

**The Transportation Board and the Trustee have no responsibility or obligation to the Direct Participants, Indirect Participants or the Beneficial Owners with respect to (i) the accuracy or the maintenance of any records maintained by DTC or any Direct Participant or Indirect Participant; (ii) the payment by any Direct Participant or Indirect Participant of any amount due to any Beneficial Owner with respect to the principal of and interest on the 2020 Notes or the sending of any transaction statements; (iii) the delivery or timeliness of delivery by DTC or any Direct or Indirect Participant of any notice to any Beneficial Owner which is required or permitted under the terms of the Indenture to be given to noteholders of the 2020 Notes; (iv) the selection of the Beneficial Owners to receive payments upon any partial redemption of the 2020 Notes; or (v) other action taken by DTC or Cede & Co. as noteholder of the 2020 Notes, including the effectiveness of any action taken pursuant to an Omnibus Proxy.**

The Transportation Board or the Trustee 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 2020 Notes without the consent of Beneficial Owners or Noteholders of the 2020 Notes.

**APPENDIX H**

**NOTICE OF SALE**

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this “Disclosure Agreement”) is executed as of September \_\_, 2020 (the “Closing Date”), by the Commonwealth Transportation Board (the “Board”) of the Commonwealth of Virginia (the “Commonwealth”) in connection with the issuance by the Board of its \$\_\_\_\_\_ Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020 (the “Notes”), pursuant to the provisions of a Master Trust Indenture dated as of February 1, 2012, as previously supplemented and amended, and as further supplemented by a Seventh Supplemental Trust Indenture dated as of September 1, 2020 (collectively, the “Indenture”), both between the Board and U.S. Bank National Association, as trustee. The proceeds of the Notes are being used to provide for the payment of certain costs of certain transportation projects in the Commonwealth and certain costs related to the issuance of the Notes.

The Board hereby covenants and agrees as follows:

**Section 1. Definitions.** In addition to the definitions used for purposes of the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” means any annual report provided by the Board pursuant to and as described in Sections 3 and 4 of this Disclosure Agreement.

“Dissemination Agent” means the Board, acting in its capacity as dissemination agent hereunder, or any successor dissemination agent. Notwithstanding anything contained in this definition, the dissemination agent shall not be required to have any agency relationship with the Board for purposes of state law.

“EMMA” means the MSRB’s Electronic Municipal Market Access system, the internet address of which is <http://emma.msrb.org/>, and any successor thereto.

“Financial Obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii). The term Financial Obligation does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB under the Rule.

“Fiscal Year” means the twelve-month period, at the end of which the financial position of the Board and results of its operations for such period are determined. Currently, the Board's Fiscal Year begins July 1 and continues through June 30 of the next year.

“Holder” means any person who is a record owner or beneficial owner of a Note.

“MSRB” means the Municipal Securities Rulemaking Board.

“Official Statement” means the Board’s Official Statement with respect to the Notes, dated September \_\_, 2020.

“Participating Underwriter” means any of the original underwriters of the Notes required to comply with the Rule in connection with the offering of such Notes.

“Rule” means Rule 15c2-12, adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**Section 2. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Board for the benefit of the Holders of the Notes and in order to assist each Participating Underwriter in complying with the Rule. The Board acknowledges that it is undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement.

**Section 3. Provision of Annual Reports: Audited Financial Statements.**

(a) By not later than April 30 following the end of each Fiscal Year of the Board, commencing with the Fiscal Year ending June 30, 2020, the Board shall submit, or shall cause the Dissemination Agent (if different from the Board) to submit, to EMMA an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Agreement. In each case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, and (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement;

(b) The Board does not produce separate financial statements, but its financial activity is included in the audited financial statements of the Commonwealth. Accordingly, the Commonwealth is an obligated person for whom financial or operating data is presented in the Official Statement, and the Commonwealth has separately executed and delivered a continuing disclosure agreement dated the date hereof related to the offering and sale of the Notes for the benefit of Holders of the Notes and to assist the Participating Underwriters in complying with the Rule. If, at any time in the future, as a result of a change in law or accounting policy, the Board should produce a separate audited financial statement, then the Board will make public such audited financial statements as provided in the Rule; and

(c) If the Board fails to submit an Annual Report to EMMA by the date required in subsection (a) hereof, the Board shall, or shall cause the Dissemination Agent (if different from the Board) to send, in a timely manner, an appropriate notice to the MSRB in substantially the form attached hereto as Exhibit A.

**Section 4. Content of Annual Reports.** Each Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, the following information, all with a view toward assisting the Participating Underwriters in complying with the Rule:

(a) a chart detailing the funding of the Highway Account of the Federal Highway Trust Fund for the most recent Fiscal Year;

(b) a chart detailing the Obligation Authority provided to the Commonwealth for the most recent Fiscal Year;

(c) a chart detailing the revenues received into the Transportation Trust Fund for the most recent Fiscal Year;

(d) if other funds have been appropriated by the General Assembly with respect to the Notes, a chart detailing the sources of such funds for the most recent Fiscal Year.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements, documents related to debt issues or other documents of the Board or the Commonwealth, that have been filed with the MSRB or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Board shall clearly identify each such other document so incorporated by reference.

**Section 5. Event Notices.** The Board will submit, or cause the Dissemination Agent (if different from the Board) to submit, in a timely manner not in excess of 10 business days after the occurrence of the event, to the MSRB, notice of the occurrence of any of the following events (listed in subsection (b)(5)(i)(c) of the Rule) with respect to the Notes (an “Event Notice”) to which the Board has actual knowledge:

- (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 credit enhancements 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 Notes, or other material events affecting the tax status of the Notes;
- (g) Modifications to rights of Holders of the Notes, if material;
- (h) Note calls, if material, and tender offers;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the Notes, if material;

- (k) Rating changes;
- (l) Bankruptcy, insolvency, receivership or similar event of the Board;
- (m) The consummation of a merger, consolidation, or acquisition involving the Board or the sale of all or substantially all of the assets of the Board, 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; and
- (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 obligated person, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, 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 obligated person, any of which reflect financial difficulties.

The Board does not undertake to provide the above-described Event Notice in the event of a mandatory, scheduled redemption, not otherwise contingent upon the occurrence of an event, if (i) the terms, dates and amounts of redemption are set forth in detail in the Official Statement for the Notes, (ii) the only open issue is when Notes will be redeemed in the case of a partial redemption, (iii) notice of redemption is given to the Holders under the terms of the Indenture, and (iv) public notice of the redemption is given pursuant to Release No. 34-23856 of the Securities and Exchange Commission, even if the originally scheduled amounts may be reduced by prior optional redemption or Note purchases.

**Section 6. Termination of Reporting Obligation.** The obligations of the Board under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of the Notes.

**Section 7. Dissemination Agent.** The Board, as the initial Dissemination Agent, may, from time to time, appoint or engage another entity to act as Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Agent, with or without appointing a successor Dissemination Agent. Any such successor Dissemination Agent will be deemed to be appointed pursuant to this Disclosure Agreement. It is currently anticipated that such successor Dissemination Agent may include, among others, Digital Assurance Certification, LLC, or similar organizations that may exist from time to time. If at any time there is not any other designated Dissemination Agent, the Board shall be the Dissemination Agent.

**Section 8. Amendment.** Notwithstanding any other provision of this Disclosure Agreement, the Board may amend this Disclosure Agreement if such amendment is supported by

an Opinion of independent Counsel with expertise in federal securities laws to the effect that such amendment is permitted or required by the Rule.

**Section 9. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Board from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or Event Notice described in Section 5 above, in addition to that which is required by this Disclosure Agreement. If the Board chooses to include any information in any Annual Report or Event Notice described in Section 5 above, in addition to that which is specifically required by this Disclosure Agreement, the Board shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice.

**Section 10. Default.** Any person referred to in Section 11 (other than the Board) may take such action as may be permitted by law against the appropriate public official to secure compliance with the obligation of the Board to file its Annual Report or to give an Event Notice as described in Section 5. In addition, Holders of not less than a majority in aggregate principal amount of the Notes Outstanding may take such actions as may be permitted by law to challenge the adequacy of any information provided pursuant to this Disclosure Agreement or to enforce any other obligation of the Board hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Indenture or any applicable resolution or other debt authorization of the Board, and the sole remedy under this Disclosure Agreement in the event of any failure of the Board to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any Holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

**Section 11. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the Board, the Participating Underwriters, and Holders from time to time of the Notes, and shall create no rights in any other person or entity.

[Signature Page Follows]



IN WITNESS WHEREOF, the Chairperson of the Commonwealth Transportation Board has executed this Continuing Disclosure Agreement as of the Closing Date.

**COMMONWEALTH TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Chairperson

*[Signature Page to Commonwealth Transportation Board Continuing Disclosure Agreement]*

NOTICE OF FAILURE TO FILE ANNUAL REPORT  
[AUDITED ANNUAL FINANCIAL STATEMENTS]

COMMONWEALTH TRANSPORTATION BOARD

in connection with  
\$ \_\_\_\_\_  
Commonwealth of Virginia  
Federal Transportation Grant Anticipation Revenue Notes, Series 2020

CUSIP Numbers:  
927790 \_\_\_ to \_\_\_

Dated: September \_\_, 2020

**NOTICE IS HEREBY GIVEN** that the Commonwealth Transportation Board (the “Board”) has not provided an Annual Report [Audited Annual Financial Statements] as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named Notes. The Board anticipates that the Annual Report [Audited Annual Financial Statements] will be filed by \_\_\_\_\_ [or it has been filed as of \_\_\_\_\_].

Dated: \_\_\_\_\_, 20\_\_

**COMMONWEALTH TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## NOTICE OF SALE

**Commonwealth Transportation Board**  
\$ \_\_\_\_\_\*  
**Commonwealth of Virginia**  
**Federal Transportation Grant Anticipation Revenue Notes,**  
**Series 2020**

Electronic bids, via *PARITY*® Competitive Bidding System (*PARITY*®) for the purchase of all, and not less than all, of the \$ \_\_\_\_\_\* preliminary aggregate principal amount of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series 2020 (the “Notes”) will be received by the Commonwealth Transportation Board (the “Transportation Board”) until [10:30] a.m. (Eastern) on September 1, 2020 (unless changed as described herein). Capitalized terms not defined herein shall have the meanings defined in the Preliminary Official Statement dated the date hereof.

### Description of Notes; Interest Payment Dates

The Notes will be dated their date of delivery, and will be issued as fully registered notes in book-entry form only. Interest on the Notes will be calculated on a 30/360 basis and will be payable semiannually on March 15 and September 15, commencing March 15, 2021.

### Principal Amortization

Principal on the Notes will be paid (subject to prior redemption) through serial maturities and/or term maturities with semi-annual sinking fund redemptions on the following dates and in the following amounts:

<u>Maturity</u>	<u>Preliminary Annual Principal Amounts*</u>	<u>Maturity</u>	<u>Preliminary Annual Principal Amounts*</u>
March 15, 2021	\$	September 15, 2028	\$
September 15, 2021		March 15, 2029	
March 15, 2022		September 15, 2029	
September 15, 2022		March 15, 2030	
March 15, 2023		September 15, 2030	
September 15, 2023		March 15, 2031	
March 15, 2024		September 15, 2031	
September 15, 2024		March 15, 2032	
March 15, 2025		September 15, 2032	
September 15, 2025		March 15, 2033	
March 15, 2026		September 15, 2033	
September 15, 2026		March 15, 2034	
March 15, 2027		September 15, 2034	
September 15, 2027		March 15, 2035	
March 15, 2028		September 15, 2035	

### Optional Redemption

The Notes maturing on or before September 15, 2030, will not be subject to optional redemption prior to their respective maturity dates. The Notes maturing on and after March 15, 2031, will be subject to optional redemption prior to their maturity at the option of the Transportation Board, on and after September 15, 2030, in whole or in part (in increments of \$5,000) at any time, at a redemption price equal to 100% of the principal amount of the Notes redeemed, plus accrued interest to the date fixed for redemption.

\* Preliminary, subject to adjustment both before and after award of the Notes as described herein under “Adjustments to Principal Amount”.

## **Serial Notes, Term Notes and Mandatory Sinking Fund Redemption**

The successful bidder may provide in the bid form for all of the Notes to be issued as serial notes or may designate consecutive principal amounts of the Notes to be combined into term notes. Each such term note shall be subject to mandatory sinking fund redemption commencing on March 15 or September 15 of the first semi-annual period which has been combined to form such term note and continuing on March 15 or September 15 in each semi-annual period thereafter until the stated maturity date of that term note. The amount redeemed in any semi-annual period shall be equal to the principal amount for such semi-annual period set forth in the appropriate amortization schedule, as adjusted in accordance with the provisions described above under the caption "Adjustments to Principal Amount." The Notes to be redeemed in any semi-annual period by mandatory sinking fund redemption shall be redeemed at par and shall be selected by lot from among the Notes of the maturity being redeemed.

## **Selection of Notes for Redemption**

If less than all of the Notes are called for optional redemption, the maturities of the Notes to be redeemed will be called in such order as the Transportation Board may determine. If less than all of the Notes of any maturity are called for optional or mandatory redemption, the Notes to be redeemed will be selected by The Depository Trust Company ("DTC") or any successor securities depository pursuant to its rules and procedures or, if the book-entry system is discontinued, will be selected by the Trustee (as defined below) by lot in such manner as the Trustee in its discretion may determine. In either event, each portion of \$5,000 principal amount shall be counted as one Note for such purpose.

## **Book-Entry Only**

Initially, one note certificate for each maturity will be issued to DTC or its nominee, which will be designated as the securities depository for the Notes. So long as DTC is acting as securities depository for the Notes, a book-entry system will be employed, evidencing ownership of the Notes in principal amounts of \$5,000 and multiples thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Principal of, redemption premium, if any, and interest on the Notes will be payable to DTC or its nominee as registered owner of the Notes. Principal of, redemption premium, if any, and interest on the Notes will be payable in lawful money of the United States of America by the Trustee.

Transfer of principal, premium, if any, and interest payments to Beneficial Owners will be the responsibility of such participants and other nominees of the Beneficial Owners. The Transportation Board will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Notes, or (b) the Transportation Board in its sole discretion determines (1) that Beneficial Owners will be able to obtain certificated notes or (2) to select a new securities depository, the Transportation Board will discontinue the book-entry system with DTC. If the Transportation Board fails to identify another qualified securities depository to replace DTC, the Transportation Board will cause the execution and delivery of replacement notes in the form of fully registered certificates.

## **Authorization and Security**

**The Notes are limited obligations of the Commonwealth of Virginia (the "Commonwealth") and the Transportation Board payable solely from and secured by certain federal highway assistance and other revenues, receipts and funds appropriated for such purpose by the General Assembly of the Commonwealth (the "General Assembly"), or allocated for such purpose by the Transportation Board from certain amounts appropriated to it by the General Assembly, and do not create or constitute a debt or a pledge of the full faith and credit of the Commonwealth or of any of its political subdivisions. The General Assembly is not obligated to make any such appropriation.**

Specifically, the Notes are payable, subject to appropriation by the General Assembly, (i) first from federal-aid highway construction reimbursements and any other federal highway assistance received from time to time by the Commonwealth under or in accordance with Title 23 of the United States Code ("Title 23"), or any successor program established under federal law, from the Federal Highway Administration ("FHWA") and any successor or additional federal agencies (the "Federal Highway Reimbursements") with respect to the project or projects to be financed or refinanced by the Notes (the "Project-Specific Reimbursements"); (ii) then, at the discretion of the Transportation

Board, to the extent required, from legally available revenues of the Transportation Trust Fund established pursuant to Section 33.2-1524 of the Virginia Code (the “Transportation Trust Fund”), including without limitation Federal Highway Reimbursements other than Project-Specific Reimbursements (the “Indirect Reimbursements”); and (iii) then from such other funds, if any, designated by the General Assembly for such purpose (collectively, the “Revenues”). The Transportation Board has pledged and granted a lien on the Revenues to secure the Notes pursuant to the Indenture. In addition, the Notes are payable from and secured by moneys held in certain funds established under the Indenture.

**The Notes are not secured by any mortgage or lien on any transportation facilities of the Commonwealth or the Transportation Board. In the event of a failure to make any payment on the Notes when due, neither the Trustee nor the registered owners of the Notes shall have any right to take possession of any transportation facilities or to exclude the Commonwealth or the Transportation Board from possession of any transportation facilities.**

The issuance of the Notes is authorized by the provisions of (i) the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, Article 4, Chapter 15, Title 33.2 of the Virginia Code; (ii) the Transportation Development and Revenue Bond Act, Article 4, Chapter 17, Title 33.2 of the Virginia Code; and (iii) a resolution adopted by the Transportation Board on July 15, 2020. The Notes are being issued pursuant to a Master Trust Indenture dated as of February 1, 2012, as previously supplemented and amended (the “Master Indenture”), and as further supplemented by a Seventh Supplemental Trust Indenture dated as of September 1, 2020 (together with the Master Indenture, the “Indenture”), each between the Transportation Board and U.S. Bank National Association, as trustee (the “Trustee”).

### **Bid Specifications**

No bid for other than all of the Notes will be considered. All bids must be unconditional. Each proposal for the Notes must specify the amount bid for such Notes not less than 100% of the par value of the aggregate principal amount of the Notes based on the Revised Amounts as described below. Bidders are invited to name the rate or rates of interest that the Notes are to bear, in multiples of 1/8 or 1/20 of one percent. Any number of rates may be named, provided that (a) the difference between the highest interest rate and the lowest interest rate shall not exceed [300] basis points and (b) no interest rate may exceed 5.00%. Each bidder must specify in its bid a single rate for each maturity of the Notes. No Note of any maturity may be reoffered at a price less than 95% of the principal amount of such Note.

### **Electronic Bidding and Bidding Procedures**

*Registration to Bid.* All prospective electronic bidders must be contracted customers of *PARITY*®. If you do not have a contract with *PARITY*®, call (212) 849-5021 to become a customer. By submitting a bid for the Notes a prospective bidder represents and warrants to the Transportation Board that the bidder has an established industry reputation for underwriting new issuances of municipal bonds and that such bidder’s bid for the purchase of the Notes (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Notes.

If any provisions of this Notice of Sale shall conflict with earlier information provided by *PARITY*® as approved provider of electronic bidding services, this Notice of Sale shall control. Further information about *PARITY*®, including any fee charged, may be obtained from *PARITY*® at (212) 849-5021.

*Disclaimer.* Each prospective bidder shall be solely responsible to register to bid via *PARITY*®. Each prospective bidder shall be solely responsible to make necessary arrangements to access *PARITY*® for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the Transportation Board nor *PARITY*® shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any prospective bidder, and neither the Transportation Board nor *PARITY*® shall be responsible for a bidder’s failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by *PARITY*®. The Transportation Board is using *PARITY*® as a communication mechanism, and not as the Transportation Board’s agent, to conduct the electronic bidding for the Notes. The Transportation Board is not bound by any advice and determination of *PARITY*® to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the “Bid Specifications” hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via *PARITY*® are the sole responsibility of the bidders; and the Transportation Board is not

responsible, directly or indirectly, for any such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Notes, it should telephone *PARITY*® and notify the Chief Financial Officer of the Virginia Department of Transportation by facsimile at (804) 786-2940.

*Bidding Procedures.* Bids submitted electronically for the purchase of the Notes (all or none) must be by means of the Commonwealth Transportation Board Bid Form (the “Bid Form”) via *PARITY*® by [10:30] a.m. (Eastern) on September 1, 2020, unless changed as described herein (see “Change of Date and Time for Receipt of Bids”). Prior to that time, a prospective bidder may input and save proposed terms of its bid in *PARITY*®. Once the final bid has been saved in *PARITY*®, the bidder may select the final bid button in *PARITY*® to submit the bid to *PARITY*®. Once the bids are communicated electronically via *PARITY*® to the Transportation Board, each bid will constitute an irrevocable offer to purchase the Notes on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on *PARITY*® shall constitute the official time.

No bids will be accepted in written form, by facsimile transmission or in any other medium or on any system other than by means of the Bid Form via *PARITY*®. No bid will be received after the time for receiving such bids specified above.

### **Good Faith Deposit**

A good faith deposit in the amount of \$\_\_\_\_\_ \* (the “Deposit”) is required in connection with the sale and bid for the Notes. The Deposit is to be provided for by a federal funds wire transfer to be submitted to the Transportation Board by the successful bidder not later than 4:00 p.m. (Eastern) on the date of sale (the “Wire Transfer Deadline”) as set forth below under “Wire Transfers”. The Deposit of the successful bidder will be collected and the proceeds thereof retained by the Transportation Board to be applied in partial payment for the Notes and no interest will be allowed or paid upon the amount thereof, but in the event the successful bidder shall fail to comply with the terms of the respective bid, the proceeds thereof will be retained as and for full liquidated damages.

*Wire Transfers.* The Transportation Board will distribute wiring instructions for the Deposit to the successful bidder upon verification of the bids submitted by the bidders and prior to the Wire Transfer Deadline. If the Deposit is not received by the Wire Transfer Deadline, the award of the sale of the Notes to the successful bidder may be cancelled by the Transportation Board in its discretion without any financial liability of the Transportation Board to the successful bidder or any limitation whatsoever on the Transportation Board’s right to sell the Notes to a different purchaser upon such terms and conditions as the Transportation Board shall deem appropriate.

### **Adjustments to Principal Amount**

*Changes Prior to Bidding.* The preliminary aggregate principal amount of the Notes and the preliminary semi-annual principal amounts as set forth in this Notice of Sale (the “Preliminary Aggregate Principal Amount” and the “Preliminary Semi-Annual Principal Amounts,” respectively; collectively, the “Preliminary Amounts”) may be revised before the opening of sealed bids for the purchase of the Notes. Any such revisions (the “Revised Aggregate Principal Amount” and the “Revised Semi-Annual Principal Amounts,” respectively; collectively, the “Revised Amounts”) WILL BE ANNOUNCED ON THOMSON MUNICIPAL MARKET MONITOR (“TM3”) (www.tm3.com) NOT LATER THAN 9:30 A.M. (Eastern) ON ANY ANNOUNCED DATE FOR RECEIPT OF BIDS. In the event that no such revisions are made, the Preliminary Amounts will constitute the Revised Amounts. BIDDERS SHALL SUBMIT BIDS BASED ON THE REVISED AMOUNTS.

*Changes to the Winning Bid.* After selecting the winning bid, the Transportation Board will determine the final aggregate principal amount of the Notes and each final semi-annual principal amount (the “Final Aggregate Principal Amount” and the “Final Semi-Annual Principal Amounts,” respectively; collectively, the “Final Amounts”). In determining the Final Amounts, the Transportation Board will not reduce or increase the Revised Aggregate Principal Amount by more than 15% of such amount. THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING PRICES (AS HEREIN DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE REVISED AMOUNTS WITHIN THESE LIMITS.

The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the aggregate principal amount of the Notes. Such adjusted bid price will reflect changes in the dollar amount of the underwriters discount and original issue discount/premium, if any, but will not change the selling compensation per \$1,000 of par amount of the Notes from the selling compensation that would have been received based on the purchase price in the

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\* Preliminary, subject change.

winning bid and the Initial Reoffering Prices (as defined below). The interest rate specified by the successful bidder for each maturity as the Initial Reoffering Prices will not change. The Final Amounts and the adjusted bid price will be communicated to the successful bidder by 10:00 a.m. (Eastern) on the business day following the sale.

### **Basis of Award**

ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M. (EASTERN) ON THE DATE OF THE SALE. An award of the Notes, if made, will be made by the Transportation Board by such time. Unless all bids are rejected, the Notes will be awarded to the bidder whose bid results in the lowest true interest cost to the Transportation Board, based on the Revised Amounts described above. The true interest cost (expressed as an annual interest rate) will be determined as being twice that factor or discount rate, compounded semi-annually, which, when applied against each combined semi-annual debt service payment (interest, or principal and interest, as due, including any mandatory sinking fund payment) for the Notes, will equate the sum of such discounted semi-annual payments to the total purchase price. The true interest cost shall be calculated from the dated date of the Notes. In case of a tie, the Transportation Board, at its sole discretion, may select the successful bidder. THE TRANSPORTATION BOARD RESERVES THE RIGHT TO WAIVE IRREGULARITIES IN ANY BID AND TO REJECT ANY OR ALL BIDS.

### **Undertakings of the Successful Bidder**

The successful bidder shall make a bona fide offering of each maturity of the Notes to the Public (as defined below) and shall, within 30 minutes after being notified of the award of the Notes, advise the Transportation Board in writing (via facsimile transmission) of the initial public offering price of each maturity of the Notes (the "Initial Reoffering Prices"). The successful bidder must, by facsimile transmission or delivery received by the Transportation Board within 24 hours after notification of the Final Amounts, furnish the following information to the Transportation Board to complete the Final Official Statement (as defined below), as described below:

- A. Selling compensation (aggregate total anticipated compensation to the underwriters expressed in dollars, based on the expectation that all the Notes are sold at the prices or yields at which the successful bidder advised the Transportation Board that the Notes were initially offered to the public).
- B. The identity of the other underwriters if the successful bidder is part of a group or syndicate.
- C. Any other material information that the Transportation Board determines is necessary to complete the Official Statement in final form.

After the award of the Notes, the Transportation Board will prepare copies of the final Official Statement and will include therein such additional information concerning the reoffering of the Notes as the successful bidder may reasonably request; provided, however, that the Transportation Board will not include in the final Official Statement a "NRO" ("not reoffered") designation with respect to any maturity of the Notes. The successful bidder will be responsible to the Transportation Board in all aspects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering.

The Transportation Board expects the successful bidder to deliver copies of such Official Statement in final form (the "Final Official Statement") to persons to whom such bidder initially sells the Notes and the Municipal Securities Rulemaking Board ("MSRB") via the MSRB's Electronic Municipal Market Access System ("EMMA"). The successful bidder will be required to acknowledge receipt of such Final Official Statement, to certify that it has made delivery of the Final Official Statement to such repositories, to acknowledge that the Transportation Board expects the successful bidder to deliver copies of such Final Official Statement to persons to whom such bidder initially sells the Notes and to certify that the Notes will only be offered pursuant to the final Official Statement and only in states where the offer is legal.

In the event the successful bidder has on its own obtained a commitment for a municipal bond insurance policy or other credit enhancement, the Transportation Board shall indicate in the Final Official Statement those maturities that the successful bidder has informed the Transportation Board for which credit enhancement is being sought. The Transportation Board will also indicate within the Final Official Statement that further information concerning such potential credit enhancement may be obtained through the successful bidder. The Transportation Board will not include the identity of the potential credit enhancer or other information with respect to the potential credit enhancer in the Final Official Statement. In addition, the Transportation Board will not place a statement of insurance on the Notes or provide such documentation, or make such covenants or arrangements, as would customarily be provided, made or arranged if

the Transportation Board were to obtain a commitment for municipal bond insurance or other credit enhancement on its own.

If the successful bidder obtains a municipal bond insurance policy or other form of credit enhancement, at the same time it provides the initial reoffering prices and yields it shall advise the Transportation Board of the cost of such credit enhancement and whether it will provide to the Transportation Board, at or before the closing of the Notes, a certificate prepared by \_\_\_\_\_ (“Bond Counsel”) to the effect that (i) the present value of the fees paid for such credit enhancement are less than the present value of the interest reasonably expected to be saved as a result of obtaining such credit enhancement, using the yield on the Notes (determined with regard to the payments for such credit enhancement) as the discount factor for this purpose, and (ii) to the best of its knowledge, such fees were obtained in arm’s length negotiations and do not exceed a reasonable charge for the transfer of credit risk. In addition, the successful bidder will cooperate with the Transportation Board and Bond Counsel to obtain the necessary certifications from the credit enhancement provider. Failure of the Notes to be so insured or of any such policy to be issued shall not in any manner relieve the successful bidder of its contractual obligations arising from the acceptance of its bid for the purchase of the Notes.

It is the policy of the Commonwealth of Virginia pursuant to Executive Order 20 (2014) to ensure that small businesses and businesses owned by women and minorities receive every opportunity to compete for the Commonwealth’s business. Following award of the Notes, the Transportation Board requires that the winning bidder provide a listing of syndicate members noting any minority, women or disadvantaged business enterprises participating in the syndicate.

### **Issue Price Certificate**

The successful bidder shall assist the Transportation Board in establishing the issue price of the Notes and shall execute and deliver to the Transportation Board on or prior to the Closing Date (as defined below) an “issue price” or similar certificate setting forth the reasonably expected initial offering prices to the public or the actual sales price or prices of the Notes, together with the supporting pricing wires or equivalent communications, substantially in the applicable form attached hereto as Exhibit A, with such modifications as may be appropriate or necessary, in the reasonable judgment of the successful bidder, the Transportation Board and Bond Counsel.

The Transportation Board intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the Notes) will apply to the initial sale of the Notes (“competitive sale requirements”) because:

- (1) the Transportation Board has disseminated this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;
- (3) the Transportation Board may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the Transportation Board anticipates awarding the sale of the Notes to the bidder who submits a firm offer to purchase the Notes at the lowest interest cost, as set forth in this Notice of Sale.

In the event that the competitive sale requirements are not satisfied, the Transportation Board shall so advise the successful bidder. In such case, the Transportation Board shall treat the first price at which 10% of a maturity of the Notes is sold to the public (the “10% test”) as the issue price of that maturity, applied on a maturity-by-maturity basis. The successful bidder shall advise the Transportation Board if any maturity of the Notes satisfies the 10% test as of the date and time of the award of the Notes.

**Any bid submitted pursuant to this Notice of Sale shall be considered a firm bid for the purchase of the Notes. By submitting a bid for the Notes, a bidder represents and warrants to the Transportation Board that the bidder has an established industry reputation for underwriting new issuances of municipal bonds and such bidder’s bid is submitted for and on behalf of such bidder by an officer or agent who is duly authorized to bind the bidder to a legal, valid and enforceable contract for the purchase of the Notes. Once the bids are**



communicated electronically via PARITY® to the Transportation Board, each bid will constitute an irrevocable offer to purchase the Notes on the terms herein and therein provided.

**The Transportation Board will not require bidders to comply with the “hold-the-offering-price rule” set forth in Treasury Regulation Section 1.148-1(f)(2)(ii).**

If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Notes, the successful bidder agrees to promptly report to the Transportation Board the prices at which the unsold Notes of each maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied for each maturity or until all Notes of that maturity have been sold.

By submitting a bid and if the competitive sale requirements are not met, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder 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 retail distribution agreement, as applicable, to report the prices at which it sells to the public the unsold Notes of each maturity allotted to it until it is notified by the successful bidder that either the 10% test has been satisfied as to the Notes of that maturity or all Notes of that maturity have been sold to the public, if and for so long as directed by the successful bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters 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 that is a party to a retail 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 retail distribution agreement to report the prices at which it sells to the public the unsold Notes of each maturity allotted to it until it is notified by the successful bidder or such underwriter that either the 10% test has been satisfied as to the Notes of that maturity or all Notes of that maturity have been sold to the public, if and for so long as directed by the successful bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Notes to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale. Further, for purposes of this Notice of Sale:

- (i) “public” means any person other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract (i.e. this Notice of Sale) with the Transportation Board (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 retail 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 (i) at least 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), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 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 that the Notes are awarded by the Transportation Board to the successful bidder.

#### **Delivery of Notes; Closing Papers and Certificates**

The Notes are expected to be delivered on or about September \_\_, 2020 (UNLESS A NOTICE OF A CHANGE IN THE DELIVERY DATE IS ANNOUNCED ON TM3 NOT LATER THAN 4:00 P.M. (EASTERN) ON ANY ANNOUNCED DATE FOR RECEIPT OF BIDS) (the “Closing Date”) through the facilities of DTC against payment of the purchase price therefor (less the amount of the good faith deposit) in Federal Funds.

There will also be furnished the usual closing papers, including, among others, certificates signed by (1) the officials who signed the Notes stating that no litigation of any kind is now pending or, to their information, knowledge or belief, threatened to restrain or enjoin the issuance or delivery of the Notes or in any manner questioning the proceedings and authority under which the Notes are issued, or affecting the validity of the Notes, and (2) appropriate Transportation Board or Commonwealth officials, respectively, relating to the Final Official Statement, as described in the Preliminary Official Statement under the section entitled “Certificate Concerning Official Statement”.

It shall be a condition of closing that the foregoing items are delivered and that, as described below, Bond Counsel deliver its opinion in substantially the form set forth in an appendix to the Preliminary Official Statement. If the delivery of any such item fails to occur, the successful bidder shall be entitled to the return of its Deposit, the Transportation Board shall not be obligated to deliver the Notes, and the successful bidder and the Transportation Board shall be relieved of their obligations to each other arising out of this Notice of Sale.

### **Legal Opinion**

The approving opinion of Bond Counsel, in substantially the form set forth in an appendix to the Preliminary Official Statement, will be furnished at no expense to the successful bidder. The Preliminary Official Statement contains a discussion of the effect of the Internal Revenue Code of 1986, as amended, on the excludability from gross income of interest on the Notes and a discussion of Bond Counsel’s opinion insofar as it concerns such tax status.

### **CUSIP Numbers**

Public Resources Advisory Group, municipal advisor to the Transportation Board, will timely apply for CUSIP numbers with respect to the Notes as required by MSRB Rule G-34. The successful bidder will be responsible for the cost of assignment of such CUSIP numbers. It is anticipated that CUSIP numbers will be printed on the Notes, but the failure to print such numbers on any Note or any error with respect thereto shall not constitute cause for a failure or refusal by the successful bidder to accept delivery of and make payment for the Notes.

### **Official Statement**

The Preliminary Official Statement dated the date hereof and the information contained therein have been deemed final by the Transportation Board as of its date within the meaning of the Rule 15c2-12 of the Securities and Exchange Commission (“Rule 15c2-12”) with permitted omissions, but is subject to change without notice and to completion or amendment in the Final Official Statement.

The Transportation Board, at its expense, will make available to the successful bidder a reasonable number of final Official Statements, for delivery to each potential investor requesting a copy of the final Official Statement and to each person to whom such bidder and members of its bidding group initially sell the Notes, within seven business days of the award of the Notes, provided that the successful bidder cooperates in a timely manner in providing the information required to complete the final Official Statement.

The successful bidder shall comply with the requirements of Rule 15c2-12 and the rules of the MSRB, including an obligation, if any, to update the final Official Statement.

### **Continuing Disclosure**

Rule 15c2-12 prohibits an underwriter from purchasing or selling municipal securities, such as the Notes, unless it has determined that the issuer of such securities and/or other persons deemed to be material “obligated persons” (hereinafter referred to as “MOPs”) have committed to provide (i) on an annual basis, certain financial and operating data (“Annual Reports”) and, if available, audited financial statements, to the MSRB via EMMA, as described in 1934 Act Release No. 59062 and (ii) notice of the events described in Rule 15c2-12 (“Event Notices”), to the MSRB via EMMA.

The Transportation Board will covenant, in a Continuing Disclosure Agreement in substantially the form provided in an appendix to the Preliminary Official Statement, for the benefit of the holders of the Notes, to provide

to the MSRB via EMMA Annual Reports with respect to itself, as issuer. Similarly, the Transportation Board will provide Event Notices to the MSRB via EMMA.

The continuing disclosure undertaking of the Commonwealth, which the Transportation Board has determined to be a MOP for purposes of Rule 15c2-12, will be evidenced by a Continuing Disclosure Agreement in substantially the form set forth in an appendix to the Preliminary Official Statement, for the benefit of the holders of the Notes, to be executed and delivered prior to the delivery of the Notes, pursuant to which the Commonwealth also will provide Annual Reports and Event Notices solely with respect to rating changes affecting the Commonwealth's general obligation bonds.

### **Change of Date and Time for Receipts of Bids**

The Transportation Board expects to take bids on the Notes on September [1], 2020 at [10:30] a.m. (Eastern). However, the Transportation Board reserves the right to change the date and time established for the receipt of bids, and will undertake to notify potential bidders of such changes in the date or time for the receipt of bids. Prospective bidders may request notification by e-mail of any such change by so advising, and furnishing their emails to, Public Resources Advisory Group, Inc. at (212) 566-7800 by Noon, (Eastern), two days prior to the date fixed for the receipt of bids.

A change of the bid date will be announced via TM3 not later than 9:30 a.m. (Eastern), on any announced date for receipt of bids, and an alternative sale date and time will be announced via TM3 at least 20 hours prior to such alternative date and time for receipt of bids.

On any such alternative sale date and time, the Transportation Board will accept bids for the purchase of the Notes, such bids to conform in all respects to the provisions of this Notice of Sale, except for the changes in the date and time of sale and any other changes announced by TM3 at the time the sale date and time are announced. In addition, the Transportation Board reserves the right to make changes to this Notice of Sale. Such changes will be announced on TM3.

### **Additional Information**

For further information relating to the Notes, reference is made to the Preliminary Official Statement, dated the date hereof, prepared for and authorized by the Transportation Board. The Preliminary Official Statement may be obtained from the undersigned at the Commonwealth Transportation Board, 1401 East Broad Street, Richmond, VA 23219 (telephone (804) 786-2707) or from the financial advisor, Public Resources Advisory Group, Inc., 39 Broadway, Suite 1210, New York, NY 10006 (telephone (212) 380-5290).

Dated: August \_\_, 2020

Commonwealth Transportation Board  
By: Shannon Valentine, Chairperson

**Exhibit A To Notice of Sale**

**Form of Issue Price Certificates**

**Commonwealth Transportation Board**  
**\$ \_\_\_\_\_**  
**Commonwealth of Virginia**  
**Federal Transportation Grant Anticipation Revenue Notes,**  
**Series 2020**

**ISSUE PRICE CERTIFICATE**

The undersigned, on behalf of \_\_\_\_\_ (the “Initial Purchaser”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Notes”).

*[Alternate 1 - Competitive Safe Harbor Met]*

**1. Reasonably Expected Initial Offering Price.**

(a) As of the Sale Date, the reasonably expected initial offering prices of the Notes to the Public by the Initial Purchaser are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Maturities of the Notes used by the Initial Purchaser in formulating its bid to purchase the Notes. Attached as Schedule B are true and correct copies of the (i) bid provided by the Initial Purchaser to purchase the Notes and (ii) the pricing wire or equivalent communication.

- (b) The Initial Purchaser was not given the opportunity to review other bids prior to submitting its bid.
- (c) The bid submitted by the Initial Purchaser constituted a firm offer to purchase the Notes.
- (d) The Initial Purchaser has an established industry reputation for underwriting new issuances of municipal bonds.

**2. Defined Terms.**

- (a) “*Issuer*” means the Commonwealth Transportation Board.
- (b) “*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.
- (c) “*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 generally means any two or more persons who have (i) at least 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), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 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).

(d) “*Sale Date*” means the date that the Notes are awarded by the Issuer to the successful bidder. The Sale Date of the Notes is [DATE].

(e) “*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 retail distribution agreement participating in the initial sale of the Notes to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Initial Purchaser’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 the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Notes, and by Williams Mullen 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 the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Notes.

[INITIAL PURCHASER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Dated: [ISSUE DATE]

*[Alternate 2 - Competitive Sale Requirements Not Met – General Rule to Apply]*

**1. 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.] Each maturity of the Notes of which at least 10% of such maturity has not yet been sold to the public (the “Unsold Notes”) is also identified in Schedule A. Attached as Schedule B are true and correct copies of the (i) bid provided by the Initial Purchaser to purchase the Notes, and (ii) the pricing wire or equivalent communication for the Notes. The Initial Purchaser has and will comply with the requirements set forth under the heading “Issue Price Certificate” in the Notice of Sale for the Notes, including reporting on the sale prices of the Unsold Notes after the date hereof as provided therein.

**2. Defined Terms.**

(a) “*Issuer*” means the Commonwealth Transportation Board.

(b) “*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.

(c) “*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 generally means any two or more persons who have (i) at least 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), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 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).

(d) “*Sale Date*” means the date that the Notes are awarded by the Issuer to the successful bidder. The Sale Date of the Notes is [DATE].

(e) “*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 retail distribution agreement participating in the initial sale of the Notes to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Initial Purchaser’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 the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Notes, and by Williams Mullen 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.

[INITIAL PURCHASER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Dated: [ISSUE DATE]

[SCHEDULE A]

[EXPECTED OFFERING PRICES – COMPETITIVE SAFE HARBOR MET]

[SCHEDULE A]

[SALE PRICES OF THE GENERAL RULE MATURITIES]

*(To Be Attached)*

**SCHEDULE B**

**PRICING WIRE OR EQUIVALENT COMMUNICATION**

*(To Be Attached)*



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 786-2940

*Agenda item # 10*

### **RESOLUTION**

### **OF THE**

### **COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

**Title: Designation of HOT Lanes on Interstate 64 between the Interstate 664/64 Interchange in Hampton and the Intersection of Interstate 64 and Jefferson Avenue in Newport News**

**WHEREAS**, pursuant to § 33.2-502 of the *Code of Virginia*, the Commonwealth Transportation Board (CTB) may designate one or more lanes of any highway in the Interstate System, primary state highway system, or National Highway System, or any portion thereof, as high-occupancy toll (HOT) lanes; and

**WHEREAS**, pursuant to § 33.2-119 of the *Code of Virginia*, tolls may be imposed and collected on existing facilities in certain cases, including on:

- (i) existing HOV lanes, and
- (ii) an existing lane on a segment of a highway whose length does not exceed 10 miles and is between an interchange and an interchange or an interchange and a bridge, provided that the number of un-tolled non-high-occupancy vehicle lanes on such segment is equal to the number of un-tolled non-high-occupancy vehicle lanes on the portion of the highway preceding such segment; and

**WHEREAS**, pursuant to 23 USC §166 (b)(4), a public authority operating a HOV facility may allow vehicles not meeting HOV requirements and not otherwise exempt from HOV

Resolution of the Board

Designation of HOT Lanes on Interstate 64 between the Interstate 664/64 Interchange in Hampton and the Intersection of Interstate 64 and Jefferson Avenue in Newport News  
July 14, 2020  
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requirements to use an HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility; and

**WHEREAS**, 23 USC §129(a)(1)(H) permits federal participation in the conversion of a HOV lane on a highway, bridge, or tunnel to a toll facility; and

**WHEREAS**, 23 U.S.C. § 129(a)(1)(C) and (G) also establish exceptions to the general prohibition against tolling Interstate highways constructed under Title 23 which exceptions apply after initial construction, or other capacity-increasing improvements, or after reconstruction, restoration, or rehabilitation of a segment of Interstate, subject to certain conditions; and

**WHEREAS**, by resolution dated October 19, 2016, the CTB designated HOT-2 lanes on Interstate 64 between Interstates 564 and 264; by resolution dated September 20, 2017, the CTB designated HOT-2 lanes on Interstate 64 between the Interstate 664/264 Interchange and Interstate 264; and by resolution dated January 10, 2018, the CTB designated HOT lanes on Interstate 64 between Interstates 664 and 564; and

**WHEREAS**, the Virginia Department of Transportation has made briefings to the CTB, Hampton Roads Transportation Accountability Commission, and Hampton Roads Transportation Planning Organization demonstrating the operational benefits of continuous HOT lane travel between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstates 64, 264, and 664 in the Bowers Hill section of Chesapeake.

**NOW THEREFORE, BE IT RESOLVED**, that, pursuant to §§ 33.2-502 and 33.2-119 of the *Code of Virginia* and 23 USC §§ 129 and 166, the Commonwealth Transportation Board hereby designates HOT lanes on Interstate 64, with a minimum of one HOT lane in each direction, beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue, and authorizes dynamic tolling of vehicles required to pay tolls while using said HOT lanes.

**BE IT FURTHER RESOLVED** that the Commonwealth Transportation Board hereby specifies a minimum vehicle occupancy requirement of two for the HOT lanes designated herein and authorizes dynamic tolling of those vehicles carrying less than two occupants that utilize the HOT lanes.

**BE IT FURTHER RESOLVED** by the Commonwealth Transportation Board, that the HOT lanes designation beginning in the vicinity of the Interstate 64/664 Interchange in Hampton and extending to the vicinity of intersection of Interstate 64 and Jefferson Avenue shall be implemented in conjunction with implementation of the HOT lanes associated with the Hampton Roads Bridge Tunnel Expansion Project.

###



## CTB Decision Brief

### Designation of HOT Lanes on Interstate 64 between the Interstate 664/64 Interchange in Hampton and the Intersection of Interstate 64 and Jefferson Avenue in Newport News

**Issue:** To reduce congestion and provide travel choices in the Hampton Roads region, establishment of a High Occupancy Toll (HOT) lanes network is contemplated. To that end, the Virginia Department of Transportation (VDOT) is requesting that the Commonwealth Transportation Board (CTB) (i) designate HOT lanes on Interstate 64, with a minimum of one HOT lane in each direction and a minimum vehicle occupancy requirement of two for vehicles not paying a toll, beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue in Newport News and (ii) also authorize dynamic tolling of vehicles required to pay tolls while using said HOT lanes.

#### Relevant Law:

- Pursuant to the provisions of § 33.2-502 of the *Code of Virginia*, the CTB may designate one or more lanes of any highway, including lanes that may have previously been designated as HOV lanes, in the Interstate System, primary state highway system, or National Highway System, or any portion thereof, as HOT lanes.
- Pursuant to § 33.2-119 of the *Code of Virginia*, tolls may be imposed and collected on existing facilities in certain cases, including on:
  - (i) existing HOV lanes, and
  - (ii) an existing lane on a segment of a highway whose length does not exceed 10 miles and is between an interchange and an interchange or an interchange and a bridge, provided that the number of un-tolled non-high-occupancy vehicle lanes on such segment is equal to the number of un-tolled non-high-occupancy vehicle lanes on the portion of the highway preceding such segment.
- Pursuant to 23 USC §166 (b)(4), a public authority operating a HOV facility may allow vehicles not meeting HOV requirements and not otherwise exempt from HOV requirements to use an HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility.
- 23 USC §129(a)(1)(H) permits federal participation in the conversion of a HOV lane on a highway, bridge, or tunnel to a toll facility.
- 23 U.S.C. § 129(a)(1)(C) and (G) also establish exceptions to the general prohibition against tolling Interstate highways constructed under Title 23 which exceptions apply after initial construction, or other capacity-increasing improvements, or after reconstruction, restoration, or rehabilitation of a segment of Interstate, subject to certain conditions.

## **Facts and Recommendations:**

- VDOT has made briefings to the CTB, Hampton Roads Transportation Accountability Commission (HRTAC), and Hampton Roads Transportation Planning Organization (HRTPO), demonstrating the operational benefits of a network providing for continuous HOT lanes travel on Interstate 64 in Hampton Roads between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstates 64, 264, and 664 in the Bowers Hill section of Chesapeake (Hampton Roads Express Lanes Network).
- By resolution dated October 19, 2016, the CTB designated HOT-2 lanes on Interstate 64 between Interstates 564 and 264; by resolution dated September 20, 2017, the CTB designated HOT-2 lanes on Interstate 64 between the Interstate 664/264 Interchange and Interstate 264; and by resolution dated January 10, 2018, the CTB designated HOT lanes on Interstate 64 between Interstates 664 and 564.
- Designation of HOT lanes on Interstate 64 beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue in Newport News would provide for the last segment of HOT lanes currently contemplated under the Hampton Roads Express Lanes Network concept.
- Accordingly, VDOT is recommending that the CTB (i) designate HOT lanes on Interstate 64, with a minimum of one HOT lane in each direction and a minimum vehicle occupancy requirement of two for vehicles not paying a toll, beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue in Newport News and (ii) authorize dynamic tolling of vehicles required to pay tolls while using said HOT lanes.

**Action Required by CTB:** The CTB will be presented with a resolution for a formal vote.

**Results, if Approved:** If approved, the resolution will:

- Result in the designation of HOT lanes on Interstate 64, with a minimum of one HOT lane in each direction, beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue.
- Establish a minimum vehicle occupancy requirement of two for the HOT lanes designated therein and authorize dynamic tolling of those vehicles carrying less than two occupants that utilize the HOT lanes.

- Provide for implementation of the HOT lanes in conjunction with implementation of the HOT lanes associated with the Hampton Roads Bridge Tunnel Expansion Project.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reaction:** HRTAC and HRTPO have taken actions demonstrating support for the Hampton Roads Express Lanes Network.



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Shannon Valentine  
Chairperson

1401 East Broad Street  
Richmond, Virginia 23219

(804) 786-2701  
Fax: (804) 225-2940

*Agenda item # 11*

## **DRAFT**

### **RESOLUTION**

### **OF THE**

### **COMMONWEALTH TRANSPORTATION BOARD**

**July 14, 2020**

### **MOTION**

**Made By: \_\_\_\_\_ Seconded By: \_\_\_\_\_**

**Action: \_\_\_\_\_**

**Title: Adoption of the Hampton Roads Express Lanes Network Concept of Operation and Approval of the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network with the Hampton Roads Transportation Accountability Commission***

**WHEREAS**, pursuant to various prior resolutions dated October 19, 2016, September 20, 2017, January 10, 2018, and July 14, 2020, the Commonwealth Transportation Board (CTB) designated as high-occupancy toll (HOT) lanes approximately forty-five miles of contiguous and continuous traffic lanes on Interstate 64 between (i) Jefferson Avenue in Newport News and (ii) Interstates 264 and 664 in the Bowers Hill section of Chesapeake (Hampton Roads Express Lanes Network); and

**WHEREAS**, the Virginia Department of Transportation (VDOT) conducted an operational analysis showing the Hampton Roads Express Lanes Network would provide for faster travel times in the general purposes and HOT lanes, less congestion in general purpose lanes, and a more reliable system of travel in the Interstate 64 corridor; and

Resolution of the Board

Adoption of the Hampton Roads Express Lanes Network Concept of Operation and Approval of the Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network with the Hampton Roads Transportation Accountability Commission

July 14, 2020

Page 2 of 2

**WHEREAS**, on May 21, 2020, the Hampton Roads Transportation Planning Organization (HRTPO) identified and adopted the Regional Express Lanes Network, consistent with the Hampton Roads Express Lanes Network concept, “as a component of the Regional Priority Projects... identified by the HRTPO in its 2040 Long Range Transportation Plan to collectively provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads”, recommending the Hampton Roads Transportation Accountability Commission (HRTAC) pursue funding, development, and implementation for the network; and

**WHEREAS**, on May 28, 2020, HRTAC voted to fund the Hampton Roads Express Lanes Network in the FY21-FY26 Plan of Finance – Six Year Operating and Capital Program; and

**WHEREAS**, § 33.2-2612 of the *Code of Virginia* permits HRTAC to impose and collect tolls along the Hampton Roads Express Lanes Network only after entering into an agreement with the CTB and VDOT; and

**WHEREAS**, HRTAC and VDOT have developed in cooperation a *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network* (the Agreement), a copy of which is attached hereto as EXHIBIT A, to be entered into among the CTB, VDOT, and HRTAC, under which the Hampton Roads Express Lanes Network would be tolled pursuant to tolling policies established principally by HRTAC; and

**WHEREAS**, the Agreement governs, among other things, (i) the procurement, financing, and delivery of the Hampton Roads Express Lanes Network, (ii) the tolling policies applicable to the Hampton Roads Express Lanes Network (iii) the imposition, collection, and enforcement of tolls on the Hampton Roads Express Lanes Network, (iv) the operation and maintenance of the tolling infrastructure and system, the HOT lanes, and applicable Interstate 64 facilities, and (v) the uses of toll revenues and the proceeds of toll-backed debt.

**NOW, THEREFORE, BE IT RESOLVED** that the Commonwealth Transportation Board hereby finds the concept of the Hampton Roads Express Lanes Network is in the best interests of the users of Interstate 64 in Hampton Roads and, thus, approves the concept of the Hampton Roads Express Lanes Network.

**BE IT FURTHER RESOLVED** that the Commonwealth Transportation Board hereby approves the Agreement, attached hereto as EXHIBIT A, with such changes and additions as the Commissioner of Highways deems necessary, and authorizes the Secretary of Transportation to execute the Agreement on behalf of the CTB and the Commissioner of Highways to execute the Agreement on behalf of VDOT.

#####

**DRAFT**  
**CTB Decision Brief**

**Adoption of the Hampton Roads Express Lanes Network Concept of Operation and Approval of the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network* with the Hampton Roads Transportation Accountability Commission**

**Issue:** To reduce congestion and provide travel choices in the Hampton Roads region, establishment of a High Occupancy Toll (HOT) lanes network (Hampton Roads Express Lanes Network or HREL Network) is contemplated for the region. Pursuant to law enacted by the 2020 General Assembly, the Hampton Roads Transportation Accountability Commission (HRTAC) has been authorized to impose and collect tolls along the Hampton Roads Express Lanes Network only after the Commonwealth Transportation Board (CTB) has designated as HOT lanes the portions of Interstate 64 to be tolled and only after entering into an agreement with the Commonwealth Transportation Board (CTB) and Virginia Department of Transportation (VDOT). CTB adoption of the HREL Network concept and approval of an agreement between VDOT, CTB and HRTAC providing for HRTAC imposition and collection of tolls on the HREL Network are sought.

**Relevant Law:**

- Pursuant to the provisions of § 33.2-502 of the *Code of Virginia*, the CTB may designate one or more lanes of any highway, including lanes that may have previously been designated as HOV lanes, in the Interstate System, primary state highway system, or National Highway System, or any portion thereof, as HOT lanes.
- Pursuant to section 33.2-2612 of the *Code of Virginia*, HRTAC, subject to certain conditions provided in the statute, has the authority to impose and collect tolls on high-occupancy toll lanes on Interstate 64 in the vicinity of the interchange of Interstate 64 and Jefferson Avenue to the interchange of Interstate 64, Interstate 264, and Interstate 664. Tolls authorized by this section may only be imposed on a portion of the facility that has been designated as high-occupancy toll lanes by the CTB pursuant to §33.2-502, and the amount of the tolls must be varied by congestion level.
- Section 33.2-2612 provides that the tolls imposed by HRTAC may be used for programs and projects that are reasonably related to or that benefit users of the facility and 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.
- Section 33.2-2612 provides that prior to the imposition of tolls pursuant to the section, HRTAC must enter into an agreement with the CTB and VDOT that (i) sets the standards for the operations of the facility, 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, 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.

**Facts:**

- VDOT has made briefings to the CTB, Hampton Roads Transportation Accountability Commission (HRTAC), and Hampton Roads Transportation Planning Organization (HRTPO), demonstrating the operational benefits of a network providing for continuous HOT lanes travel on Interstate 64 in Hampton Roads between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstates 64, 264, and 664 in the Bowers Hill section of Chesapeake.
- By resolution dated October 19, 2016, the CTB designated HOT-2 lanes on Interstate 64 between Interstates 564 and 264; by resolution dated September 20, 2017, the CTB designated HOT-2 lanes on Interstate 64 between the Interstate 664/264 Interchange and Interstate 264; by resolution dated January 10, 2018, the CTB designated HOT lanes on Interstate 64 between Interstates 664 and 564, and by resolution dated July 14, 2020, the CTB designated HOT-2 lanes on Interstate 64 beginning in the vicinity of the Interstate 64/664 interchange in Hampton and extending to the vicinity of the intersection of Interstate 64 and Jefferson Avenue.
- On May 21, 2020, the Hampton Roads Transportation Planning Organization (HRTPO) identified and adopted the Regional Express Lanes Network, consistent with the Hampton Roads Express Lanes Network concept, “as a component of the Regional Priority Projects... identified by the HRTPO in its 2040 Long Range Transportation Plan to collectively provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads”, recommending the Hampton Roads Transportation Accountability Commission (HRTAC) pursue funding, development, and implementation for the network.
- On May 28, 2020, HRTAC voted to fund the Hampton Roads Express Lanes Network in its FY21-FY26 Plan of Finance – Six Year Operating and Capital Program.
- Pursuant to section 33.2-2612, HRTAC and VDOT have developed in cooperation a *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network* (the Agreement), a copy of which is attached hereto as EXHIBIT A, (to be entered into by the CTB, VDOT, and HRTAC), under which the Hampton Roads Express Lanes Network would be tolled pursuant to tolling policies established principally by HRTAC.
  - The Agreement governs, among other things, (i) the procurement, financing, and delivery of the Hampton Roads Express Lanes Network, (ii) the tolling policies applicable to the Hampton Roads Express Lanes Network (iii) the imposition, collection, and enforcement of tolls on the Hampton Roads Express Lanes Network, (iv) the operation and maintenance of the tolling infrastructure and system, the HOT lanes, and applicable Interstate 64 facilities, and (v) the uses of toll revenues and the proceeds of toll-backed debt.

**Recommendations:** VDOT recommends that the CTB (i) adopt the HREL Network concept and (ii) approve the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network* attached hereto as EXHIBIT A, authorizing the Commissioner of Highways to make such changes and additions deemed necessary, authorizing the Secretary of Transportation to execute the Agreement on behalf of the CTB and authorizing the Commissioner of Highways to execute the Agreement on behalf of VDOT.

**Action Required by CTB:** The CTB will be presented with a resolution for a formal vote.

**Results, if Approved:** If approved, the resolution will demonstrate CTB approval of the HREL Network, provide CTB approval of the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network* and authorize the Secretary of Transportation and the Commissioner of Highways to execute the Agreement on behalf of the CTB and VDOT, respectively.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reaction:**



**EXHIBIT A--VDOT DRAFT JULY 10, 2020**

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

Dated [●], 2020

among

**HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION,  
as Commission**

**COMMONWEALTH TRANSPORTATION BOARD,  
as Board**

and

**VIRGINIA DEPARTMENT OF TRANSPORTATION,  
as Department**

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## **EXHIBITS**

Exhibit 1	List of Standard Project Agreements re: HRB
Exhibit 2	CTB Resolutions re: Express Lanes Network
Exhibit 3	HRTPO Resolutions re: Express Lanes Network
Exhibit 4	Definitions
Exhibit 5	Implementation Map
Exhibit 6	Conceptual Scope and Estimate for HREL Project
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Exhibit 8	Conceptual Funding Plan
Exhibit 9	Standard Project Agreement for Funding and Administration
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Exhibit 11	[Intentionally omitted]
Exhibit 12	Tolling Operations and Maintenance Standards
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Exhibit 14	Form of Electronic Toll Collection Agreement
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**EXHIBIT A--VDOT DRAFT JULY 10, 2020**

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

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

**RECITALS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **ARTICLE 1**

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

#### **Section 1.01 Definitions**

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

#### **Section 1.02 Interpretation**

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

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

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

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

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

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

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

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

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

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

### **Section 1.03 Order of Precedence**

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

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

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



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

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

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

#### **Section 1.04 Representations and Warranties of the Board and the Department**

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

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

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

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

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

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

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

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

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

### **Section 1.05 Representations and Warranties of the Commission**

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

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

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

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

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

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

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

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

## ARTICLE 2

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

#### **Section 2.01 Initial Interstate 64 Express Lanes Network**

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

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

#### **Section 2.02 Sequencing of Development and Implementation**

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

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

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

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

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

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

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

### **Section 2.03 Additional Tolled Lane(s)**

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

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

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

## **ARTICLE 3**

### **PROCUREMENT AND COMPLETION OF THE HREL PROJECT**

#### **Section 3.01 General Obligations of the Department**

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

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

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

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

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

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

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

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

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

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

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

### **Section 3.02 Commission Involvement in Procurement Activities**

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

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

(a) providing periodic updates regarding the status of the procurement process at reasonable intervals;

(b) providing briefings to the Commission, as requested by the Executive Director; *provided* that the Department may conduct such briefings after briefing the Board on the same topics if the Department determines it must make such a briefing to the Board before making the requested briefing to the Commission;

(c) providing the Executive Director and the applicable Commission representatives, in a manner consistent with past practice with the HRBT Expansion Project, an opportunity to participate in the development of, and provide feedback on, the terms of any applicable request for proposals or invitation to bid and any addenda or supplements thereto;

(d) in the case of a request for proposals, providing the Executive Director (including applicable Commission representatives) an opportunity to participate in meetings with prospective or shortlisted offerors, review proposals, provide input to the Department's evaluation team, and observe the scoring of proposals (on a non-voting basis); and

(e) providing the Executive Director (including applicable Commission representatives) with the opportunity to review and comment on drafts of, and receive a copy of the final, complete form of, any agreement relating to the goods and services procured (including all exhibits, appendices and attachments thereto).

### **Section 3.03 Additional High Rise Bridge Work**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

### **Section 3.05 Funding of HREL Project**

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

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

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

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

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

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

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

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

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

### **Section 3.07 FHWA Approvals**

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

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

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

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

## **ARTICLE 4**

### **TOLLING OPERATION AND MAINTENANCE**

#### **Section 4.01 Performance of Tolling O&M Duties**

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

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

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<sup>5</sup> **Note to VDOT**: Subject to continuing review relating to tax exempt bond financing.

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

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

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

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

#### **Section 4.02 Department Responsibility for All Roadway Operations and Maintenance**

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

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

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

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

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

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

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

## ARTICLE 5

### **TOLLING POLICY AND PROCEDURE**

#### **Section 5.01 HOT Designation and Tolling Authority**

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

#### **Section 5.02 Tolling Policies**

(a)

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

shall deliver with it (1) written findings and any supporting documentation demonstrating that the proposed policies, without modification, would be reasonably likely to result in a Tolling Policy Material Adverse Effect, and (2) if feasible, recommended reasonable revisions, the adoption of which would result in the deemed issuance of a No Exception Notice. If the Commissioner issues such an Exception Notice and the Commission and the Department are unable to resolve any dispute with respect thereto (through negotiation or the escalation process set forth in Article 7), such dispute shall be resolved in accordance with the dictates (including the standard of review) set forth in Section 5.02(g)(vii).

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

(b) The Initial Tolling Policies shall:

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

(ii) establish toll points;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



have the power to propose or introduce modifications to the Tolling Policies or to make, deny, repeal, or revoke any Tolling Policy).

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

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

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

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

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

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

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

(iv) The Commissioner may not issue an Exception Notice unless he or she is able to reasonably demonstrate that the proposed modifications to the Tolling Policies,

without modification, are reasonably likely to result in a Tolling Policy Material Adverse Effect.

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

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

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

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

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

### **Section 5.03 Rate Methodology**

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

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

(c) In exercising its right to impose and collect tolls, the Commission may impose, charge, collect, use, and enforce incidental fees and charges (by way of example and not

limitation, reasonable administrative fees for account maintenance, account statements, and customer service, and fees, penalties, and interest for toll violations) of a type charged by toll road operators in the Commonwealth.

#### **Section 5.04 E-ZPASS Compliance; Electronic Toll Collection Services**

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

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

#### **Section 5.05 Continuing Operations as HOT Lanes**

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

#### **Section 5.06 Tolling Enforcement**

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

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

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

## **Section 5.07 Suspension of Tolling**

(a) The Department shall, in its sole discretion, have the right to order immediate suspension of tolling in the event any portion of the Express Lanes Network is required for use as an emergency mass evacuation route. The Department shall lift any such emergency toll suspension as soon as the need for emergency mass evacuation ceases.

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

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

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

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

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

## **Section 5.08 Preservation of General Purpose Lanes**

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

(b) Without limiting the foregoing, unless the Parties otherwise expressly agree, the users of Interstate 64 between Jefferson Avenue and Bowers Hill (which, for the avoidance of doubt, runs through the Hampton Roads Bridge-Tunnel and across the High Rise Bridge) will at all times continue to have a free means of travel in each direction throughout that corridor as an alternative to the HOT lanes. However, nothing in this provision shall be construed to negate the Department's right to close general purpose lanes when necessary to accommodate the performance of maintenance activities, including when such closure constitutes a Compensation Event.

### **Section 5.09 Transitional Approach with Reversible HOT Lanes**

(a) Until the Transition Date, the Reversible HOT Lanes will be tolled under the authority of the Board.

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

### **Section 5.10 Opportunity to Receive Beneficial Terms**

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

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

parties to such agreement, whether in the form of Exhibit 16 or as such agreement may be modified from time to time.

## ARTICLE 6

### **TOLL REVENUES AND TOLL-BACKED DEBT PROCEEDS**

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

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

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

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

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

## Section 6.02 Proceeds Waterfall

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

(i) first, to procure and implement the Tolling Infrastructure and System;

(ii) second, to fund the Covered Costs of the HRBT Expansion Project pursuant to the then-current funding plan that the Commission has adopted (and, if applicable, amended/updated) with respect to its programmed projects, with the amount of such funding being \$345,000,000 or such greater amount of Toll-Backed Debt that may, subject to the Balancing Principle, be allocated by the Commission to such Covered Costs;

(iii) third, for HREL Project Costs not already funded pursuant to paragraph first;

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

(v) fifth, subject to applicable law and applicable Financing Covenants, for such other purposes as the Parties mutually approve.

## Section 6.03 Revenues Waterfall

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

(i) first, to pay the Tolling O&M Costs and to fund and maintain any reasonable operations and maintenance reserves required by lenders, to the extent such amounts are not satisfied pursuant to Section 6.02(a) (*Proceeds Waterfall*);

(ii) second, to pay any Toll-Backed Debt Service and to fund and maintain reserves (including, without limitation, any debt service reserve fund deposits) related to Toll-Backed Debt required by lenders, in each case as permitted by applicable law;

(iii) third, to a HREL Project Cost payment fund;

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

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

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

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

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

#### **Section 6.04 Balancing Principle; Substitution of Source**

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



## **Section 6.05 Reports and Accounting; Financial Models**

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

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

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

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

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

## **Section 6.06 Compensation Events**

(a) Compensation Event Notice.

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

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

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

(b) Commission Damages Determination.

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

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

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

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

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

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

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

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

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

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

### **Section 6.07 Limitation on Additional Toll-Backed Debt**

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

### **Section 6.08 Contractor Acts**

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

## ARTICLE 7

### DISPUTE RESOLUTION

#### **Section 7.01 Disputes under the Agreement**

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

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

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

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

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

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

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

## ARTICLE 8

### TERM

#### **Section 8.01 Term of Agreement**

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

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

(ii) June 30, 2080.

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

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

(c) The following provisions shall survive any expiration or mutually agreed termination of this Agreement: (i) Section 1.01, Section 1.02, Section 1.03, Section 3.08(a), Section 6.03(c), Section 7.01, Section 8.01(c), Section 10.05, Section 10.10, Section 10.11, Section 10.12; and (ii) in each case with respect to events occurring before the expiration or termination of this Agreement: Section 5.07(f), Section 6.06, and Section 6.08.<sup>7</sup>

## ARTICLE 9

### NONCOMPLIANCE AND REMEDIES

#### **Section 9.01 Breach**

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

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<sup>7</sup> **Note to VDOT:** Subject to review.

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

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

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

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

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

## **Section 9.02 Available Remedies**

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

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

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

## ARTICLE 10

### MISCELLANEOUS

#### **Section 10.01 Operations and Maintenance**

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

#### **Section 10.02 Signage; Naming Rights**

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

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

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

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

#### **Section 10.03 Insurance**

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



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

#### **Section 10.04 Assignment**

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

#### **Section 10.05 Notices**

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

If to the Commission:

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

With copies to (which shall not constitute notice):

The office of record of the Commission's general counsel

If to the Department or the Board:

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

With copies to (which shall not constitute notice):

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

#### **Section 10.06 Modification or Amendment**

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

#### **Section 10.07 Engagement of Counsel**

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

#### **Section 10.08 No Personal Liability or Creation of Third Party Rights**

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

#### **Section 10.09 No Agency**

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

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

### **Section 10.10 Governing Law**

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

### **Section 10.11 Sovereign Immunity**

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

### **Section 10.12 Severability**

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

### **Section 10.13 Counterparts**

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

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

*[SIGNATURE PAGES TO FOLLOW]*

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

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[●]  
Hampton Roads Transportation Accountability Commission Chair

Date: \_\_\_\_\_

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

**COMMONWEALTH TRANSPORTATION BOARD**

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The Honorable Shannon Valentine  
Secretary of Transportation

Date: \_\_\_\_\_

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

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

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

Date: \_\_\_\_\_

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

**EXHIBIT 1**

**List of Standard Project Agreements Re: HRB**

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

**EXHIBIT 2**

**CTB Resolutions Re: Express Lanes Network**

Exhibit 2-1



**EXHIBIT 3**

**HRTPO Resolutions Re: Express Lanes Network**

Exhibit 3-1

## **EXHIBIT 4**

### **Definitions**

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

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

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

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

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

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

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

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

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

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

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

“**Bowers Hill Project**” means [●]

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<sup>8</sup> **Note to VDOT**: To be discussed.

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

“**Commission**” means the Hampton Roads Transportation Accountability Commission.

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

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

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

“**Commonwealth**” means the Commonwealth of Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Department**” means the Virginia Department of Transportation.

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

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

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

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

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

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

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

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

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

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

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

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

“**HNTB**” means HNTB Corporation.

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

“**HOV**” means high-occupancy vehicle.

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

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

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

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

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

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

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

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

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

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

“**HRTPO**” means the Hampton Roads Transportation Planning Organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**Proceeds Waterfall**” is defined in Section 6.02.

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

“**Revenues Waterfall**” is defined in Section 6.03.

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

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

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

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

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

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

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



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

“**System Segment**” means each of the following:<sup>11</sup>

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

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

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

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

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

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

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

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

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

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

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

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

**“Tolling Policy Material Adverse Effect”** means, with respect to a proposed element of the Initial Tolling Policies or a proposed modification to the Tolling Policies, an effect caused by the proposed element or proposed modification that is material and adverse to the safety or operations of the Applicable Facility, determined as follows using then-current industry standard predictive tools as described below:

- (i) in the case of safety, the implementation of the element or modification would cause the Crash Rate in either a Barrier Section (where the Crash Rate for the HOT lanes would be calculated separately from the general purpose lanes, resulting in two independent Crash Rates) or in a Non-Barrier Section (where the Crash Rate for the HOT lanes and general purpose lanes would be calculated collectively, resulting in a single Crash Rate) to increase by more than five percent (5%) as compared to the average Crash Rate in the applicable Barrier Section or Non-Barrier Section during the then immediately-preceding five (5) year period; or

in the case of operations, the implementation of the element or modification would cause a change in operational conditions whereby (A) the person throughput in two or more System Segments for one or more Peak Periods will decrease by more than five percent (5%), or (B) the person throughput in any single System Segment for one or more Peak Periods will decrease by more than ten percent (10%), in each case (whether (A) or (B)) as compared to a baseline operational condition established by an operational analysis, performed in accordance with industry standards for micro-simulation analysis and investment grade traffic and revenue studies, completed sufficiently before the planned effective date of the proposed element or modification to reflect the operating conditions of the Applicable Facility before the element or modification would be implemented; *provided that*, person throughput will be measured by analyzing the applicable general purpose lanes and HOT lanes in combination.

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

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

**“Toll Revenues”** means:

- (a) all amounts received by or on behalf of the Commission (or by the Board with respect to the Reversible HOT Lanes) for use of the Express Lanes Network, including without

limitation fees, tolls, rates, incidental charges, and other charges (including administrative charges such as late fees, insufficient funds fees, etc.), and

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

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

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

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

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

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

“**Truck**” means [●].<sup>13</sup>

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

<sup>13</sup> **Note to VDOT:** Please provide proposed definition.

# EXHIBIT 5

## Implementation Map



Exhibit 5-1

**EXHIBIT 6**

**Conceptual Scope and Estimate for HREL Project**

<b>I-64 HREL NETWORK SEGMENT NO.</b>	<b>CONCEPTUAL SCOPE</b>	<b>CONCEPTUAL ESTIMATE</b>
1 (I-564 to I-264)	<ol style="list-style-type: none"><li>1. conversion of the inside shoulder lanes (eastbound and westbound) along Interstate 64 to a part-time HOT lane</li><li>2. widening in spot locations to maintain minimum shoulder width in both directions</li><li>3. replacement of four bridges as follows:<ol style="list-style-type: none"><li>a) Tidewater Drive bridges (eastbound and westbound)</li><li>b) Chesapeake Boulevard bridges (eastbound and westbound)</li></ol></li><li>4. additional right-of-way acquisition (approximately 30 parcels) and utility relocations</li><li>5. installation of tolling gantries, signage, and other physical assets to support the tolling solution.</li><li>6. any additional related work necessary to accomplish the above-defined scope</li></ol>	\$193,147,774
3 (Settlers Landing Road to I-564)	<ol style="list-style-type: none"><li>1. installation of tolling gantries, signage, and other physical assets to support the tolling solution</li><li>2. any additional related work necessary to accomplish the above-defined scope</li></ol>	\$24,630,792

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

Exhibit 6-2

<b>I-64 HREL NETWORK SEGMENT NO.</b>	<b>CONCEPTUAL SCOPE</b>	<b>CONCEPTUAL ESTIMATE</b>
4C (LaSalle Ave. to Settlers Landing Road)	<ol style="list-style-type: none"> <li>1. widening of eastbound and westbound lanes from about MM265.5 to about MM267.8; rehabilitation of existing lanes and an additional 12' wide travel lane in each direction</li> <li>2. conversion of one general purpose lane to a HOT lane in each direction (for 2 general purpose + 2 HOT final configuration)</li> <li>3. bridge replacement and rehabilitation<sup>14</sup> as follows: <ol style="list-style-type: none"> <li>a) eastbound Hampton River bridges (replacement)</li> <li>b) westbound Hampton River bridge (widen and rehabilitate)</li> <li>c) eastbound and westbound portions of the bridge over King Street (widen and rehabilitate)</li> <li>d) westbound portion of bridge over Settlers Landing Road (widen and rehabilitate)</li> </ol> </li> <li>4. installation of tolling gantries, signage, and other physical assets to support the tolling solution</li> <li>5. realignment of Interstate ramps, as needed</li> <li>6. right-of-way acquisition (estimated 92 parcels impacted) and utility relocations</li> <li>7. installation of sound barriers</li> <li>8. any additional related work necessary to accomplish the above-defined scope</li> </ol>	\$526,537,729

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



<b>I-64 HREL NETWORK SEGMENT NO.</b>	<b>CONCEPTUAL SCOPE</b>	<b>CONCEPTUAL ESTIMATE</b>
Overall Segments 1, 3, and 4	1. network toll system integration by toll solution provider	\$39,156,350
<b>GRAND TOTAL HREL PROJECT CONCEPTUAL ESTIMATE</b>		<b>\$939,672,593<sup>15</sup></b>

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

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

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

**EXHIBIT 7**

**[intentionally omitted]**

**EXHIBIT 8**

**Conceptual Funding Plan**

**EXHIBIT 9**

**Model Standard Project Agreement for Funding and Administration**

## **EXHIBIT 10**

### **Additional High Rise Bridge Work**

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

**Scope:** The project scope includes:

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

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

**EXHIBIT 11**

**[Intentionally Omitted]**

**EXHIBIT 12**

**Tolling Operations and Maintenance Standards**

[TO COME]

**EXHIBIT 13**

**Maintenance Protocol**

[TO COME]



**EXHIBIT 14**

**Form of Electronic Toll Collection Agreement**

[TO COME]

**EXHIBIT 15**

**Form of Violation Processing Services Agreement**

[TO COME]

**EXHIBIT 16**

**Tolling O&M Duties**

[TO COME]

INTERSTATE

Order No.	UPC No. Project No.	Location and Work Type	Vendor Name	No Of Bidders	Bid Amount	Estimated Construction Cost.	EE Range
C10	113759	FROM: 1.20 MI NORTH OF I-81	ORDERS CONSTRUCTION COMPANY, INC.	7	\$15,358,465.76	\$13,732,001.48	Within
	0077-098-828, B653, B654, C501	TO: 1.75 MI NORTH OF I-81	ST. ALBANS				
	NHPP-077-1(108)	WYTHE	WV				
	Construction Funds	BRISTOL DISTRICT					
		SGR - BRIDGE REPLACEMENT OVER COVE CREEK					

**1 Recommended for AWARD \$15,358,465.76**

## **July 2020 CTB Meeting**

C10

**0077-098-828, C501, B653, B654**

**Wythe County**

The purpose of the project was to replace two bridges carrying I-77 over Cove Creek, just north of Wytheville. The existing southbound I-77 bridge is VA Str. No 098-2036 (Federal ID 19566) and the existing northbound I-77 bridge is VA Str. No 098-2035 (Federal ID 19565).

The NBL and SBL existing multi-span bridges were 282' and 264' long, respectively, and were 36' wide out-to-out with a 45 degree skew angle for the substructures to match Cove Creek. The replacement project provides shorter bridges using a 188'-0" steel plate girder simple span and a zero degree skew. Bridge abutments are semi-integral, steel pile supported, structures on top of variable height MSE walls laid out in a "saw tooth" pattern to accommodate the zero degree skew bridge ends and the 45 degree stream crossing. The geometry of the MSE walls also accommodate future roadway widening by adding space for a 12' lane on the right side and widening the proposed 6' left shoulder to be 12' in the future. Replacement bridge span lengths were set based on minimizing impact to the existing 100-year flood elevation for Cove Creek.

Construction will be phased to maintain two lanes of traffic in each direction. The sequence of construction will require the new SBL structure to be built in portions in two different phases with the new NBL structure being constructed in a single construction phase. To maintain traffic, lane shifts will utilize transitions and temporary diversions in the median between the two bridges.

Fixed Completion Date: January 9, 2023



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL  
COMMONWEALTH OF VIRGINIA

**ELECTRONIC MEETINGS  
PUBLIC COMMENT FORM**

**WE NEED YOUR HELP--Please give us your feedback regarding how meetings using electronic communications technology compare to traditional meetings where everyone is present in the same room at the same time.**

1. Name of the public body holding the meeting: \_\_\_\_\_

2. Date of the meeting: \_\_\_\_\_

3. What are your overall thoughts or comments about this meeting? \_\_\_\_\_  
\_\_\_\_\_

4. Where did you attend this meeting -- main meeting location OR from a remote location? (circle one)

5. Technology used for the meeting (audio only or audio/visual, devices and/or software used--please be as specific as possible--for example, speakerphone, iPad, Skype, WebEx, Telepresence, etc.):  
\_\_\_\_\_

6. Were you able to hear everyone who spoke at the meeting (members of the body and members of the public)?

Poor				Excellent
1	2	3	4	5

COMMENT \_\_\_\_\_

7. How easy was it for you to obtain agenda materials for this meeting?

Easy				Difficult
1	2	3	4	5

COMMENT \_\_\_\_\_

8. Could you hear/understand what the speakers said or did static, interruption, or any other technological problems interfere?

Easy				Difficult
1	2	3	4	5

COMMENT \_\_\_\_\_

9. If the meeting used audio/visual technology, were you able to see all of the people who spoke?

Poorly				Clearly
1	2	3	4	5

COMMENT \_\_\_\_\_

**10. If there were any presentations (PowerPoint, etc.), were you able to hear and see them?**

Poorly  
1      2      3      4      5  
Clearly

COMMENT \_\_\_\_\_

**11. Were the members as attentive and did they participate as much as you would have expected?**

Less  
1      2      3      4      5  
More

COMMENT \_\_\_\_\_

**12. Were there differences you noticed in how the members interacted?**

**With the other members present:**

Very Different  
1      2      3      4      5  
No Difference

**With members participating from other locations:**

Very Different  
1      2      3      4      5  
No Difference

**With the public:**

Very Different  
1      2      3      4      5  
No Difference

COMMENT \_\_\_\_\_

**13. Did you feel the technology was a help or a hindrance?**

Hindered  
1      2      3      4      5  
Helped

COMMENT \_\_\_\_\_

**14. How would you rate the overall quality of this meeting?**

Poor  
1      2      3      4      5  
Excellent

COMMENT \_\_\_\_\_

**THANK YOU. Please send your completed form by mail, facsimile or electronic mail to the FOIA Council using the following contact information:**

Virginia Freedom of Information Advisory Council  
General Assembly Building, Second Floor  
201 North 9th Street, Richmond, Virginia 23219  
[foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)/Fax: 804-371-8705/Tele: 866-448-4100