

HRTAC RESOLUTION 2021 – 05

**RESOLUTION AUTHORIZING THE ISSUANCE OF
UP TO \$818,000,000 IN AGGREGATE PRINCIPAL AMOUNT
OF HAMPTON ROADS TRANSPORTATION FUND
SUBORDINATE LIEN REVENUE BONDS (TIFIA SERIES 2021) AND UP TO
\$818,000,000 OF HAMPTON ROADS TRANSPORTATION FUND
SENIOR LIEN BOND ANTICIPATION NOTES**

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

WHEREAS, the Commission has previously reviewed and approved a debt management plan for the financing and refinancing of the costs of the Hampton Roads Bridge Tunnel Expansion Project, which constitutes in accordance with the HRTAC Act a construction project for congestion relief on a new or existing highway, bridge, and/or tunnel in the localities comprising Planning District 23 (the “HRBT Expansion Project”), and funding for costs for the HRBT Expansion Project includes the Commission’s previously issued Series 2020A Bonds and certain “TIFIA” funding, each as described below;

WHEREAS, on February 14, 2018, the Commission issued its Senior Lien Revenue Bonds, Series 2018A (the “2018A Bonds”), in the principal amount of \$500,000,000, pursuant to the terms of the HRTAC Act, resolutions approved by the governing body of the Commission on June 16, 2016 and December 14, 2017, and a Master Indenture of Trust (as supplemented and amended from time to time, the “Master Indenture”) as supplemented by a First Supplemental Series Indenture, each between the Commission and Wilmington Trust, National Association (the “Trustee”) and dated as of February 1, 2018;

WHEREAS, the Commission has also issued the following series of obligations under the Master Indenture for the funding of certain Projects:

- \$500,789,463 TIFIA Series 2019A Bond (TIFIA – 20201001A) pursuant to the Master Indenture as supplemented by a Second Supplemental Series Indenture dated as of December 1, 2019;
- \$414,345,000 Intermediate Lien Bond Anticipation Notes, Series 2019A, pursuant to the Master Indenture and a Third Supplemental Series Indenture dated as of December 15, 2019; and
- \$614,615,000 Senior Lien Revenue Bonds, Series 2020A, pursuant to the Master Indenture and a Fourth Supplemental Series Indenture dated as of October 1, 2020;

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

WHEREAS, the Commission's Letter of Interest, dated April 29, 2020, for a secured loan (the "TIFIA Loan") under the Transportation Infrastructure Finance and Innovation Act of 1978, as amended ("TIFIA Act"), to further finance a portion of the costs of the HRBT Expansion Project has been advanced by the United States Department of Transportation ("U.S. DOT") through creditworthiness review and into negotiation of business terms;

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

WHEREAS, to evidence the obligation of the Commission to repay the loan under the TIFIA Loan Agreement, the Commission desires to authorize the issuance of an additional series of obligations under the Master Indenture in an initial principal amount of up to \$818,000,000, to be designated as the "Subordinate Lien Revenue Bond, TIFIA Series 2021" (the "TIFIA Series 2021 Bond"), the proceeds of which would be used to finance in part the costs of the Eligible Project Costs (as defined in the TIFIA Loan Agreement);

WHEREAS, market conditions may make it fiscally advantageous for the Commission to issue bond anticipation notes and utilize the proceeds thereof to fund certain construction costs of the HRBT Expansion Project on an interim basis before the proceeds of the TIFIA Series 2021 Bond are drawn under the TIFIA Loan Agreement, and for the Commission to utilize a portion of the proceeds of the TIFIA Series 2021 Bond to repay such bond anticipation notes at maturity;

WHEREAS, the Commission therefore desires to authorize the issuance of an additional series of obligations under the Master Indenture in an initial principal amount of up to \$818,000,000, to be designated as the "Senior Lien Bond Anticipation Notes, Series 2021" (the "Series 2021 Notes"), to provide short term funding of the HRBT Expansion Project, such Series 2021 Notes to be retired with proceeds of the TIFIA Series 2021 Bond as stated above, or otherwise from available amounts under the Master Indenture, or by issuing bonds for such purpose under the Master Indenture;

WHEREAS, in furtherance of the foregoing, the Executive Director and the Finance Committee have recommended that the Commission proceed with the issuance of the obligations described above, and with the authorization, execution and delivery of certain financing documents, drafts of which have been presented by the Commission's Financial Advisor and Bond Counsel to the Finance Committee and to the Commission, including the following (collectively, the "Bond Documents"):

(a) A Fifth Supplemental Series Indenture of Trust between the Commission and the Trustee (the "Fifth Series Supplement"), relating to the issuance of the TIFIA Series 2021 Bond;

(b) The TIFIA Loan Agreement;

(c) The form of the TIFIA Series 2021 Bond, attached as Exhibit B to the Fifth Series Supplement;

(d) A Sixth Supplemental Series Indenture of Trust between the Commission and the Trustee (the "Sixth Series Supplement" together with the Fifth Series Supplement, the "Series Supplements"), relating to the issuance of the Series 2021 Notes;

(e) The form of the Series 2021 Notes, attached as Exhibit B to the Sixth Series Supplement;

(f) A Bond Purchase Agreement between the Commission and the underwriters appointed by the Commission (the "Bond Purchase Agreement"), relating to the sale of the Series 2021 Notes;

(g) A Preliminary Official Statement furnishing information to prospective purchasers of the Series 2021 Notes regarding the Commission, the Series 2021 Notes and the security therefor (the "Preliminary Official Statement"); and

(h) A Continuing Disclosure Undertaking of the Commission, in accordance with Securities Exchange Commission Rule 15c2-12, as amended (the "Municipal Securities Rule"), to periodically provide certain updated disclosures to the municipal securities market regarding the Commission, the Series 2021 Notes and the security therefor;

WHEREAS, the Commission has determined that it would be in the best interests of the Commission to authorize the Executive Director to finalize the terms of the TIFIA Series 2021 Bond, the Series 2021 Notes, and the Bond Documents with the advice of the Financial Advisor, Bond Counsel and the Commission's general counsel, and to cause the execution and delivery thereof, subject to the limitations and parameters hereinafter provided in this Resolution;

WHEREAS, the Commission desires to authorize the transfer of certain limited amounts from the General Fund established under the Master Indenture (the "HRTF Transfers") to provide support with respect to certain funds to be established under the Commission's toll revenue bond indenture;

WHEREAS, the Commission is meeting to discuss and transact the business of the Commission, and the Commission deems it necessary to meet by electronic communications without physical assembly of members of the Commission in accordance with the budget bill of the Commonwealth of Virginia (the "Commonwealth") for the biennium ending June 30, 2022, as adopted by the Virginia General Assembly, because the Governor of the Commonwealth has issued Executive Order Fifty-One (2020) declaring a state of emergency, which declaration

continues in force and effect, and the nature of such emergency makes it impracticable or unsafe for the Directors of the Commission to assemble in a single location.

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

1. The Commission authorizes and approves the issuance of the TIFIA Series 2021 Bond, in one or more sub-series, and the Series 2021 Notes, under the Master Indenture.

2. The Commission is authorized to enter into the TIFIA Loan Agreement to obtain a secured loan from the TIFIA Lender in the initial principal amount of up to \$818,000,000, which amount may be increased from time to time, to the extent permitted under the TIFIA Loan Agreement, to reflect the amount of interest on the disbursed amount of the loan that is not currently paid by the Commission.

3. The Commission authorizes and directs the Executive Director or the Chair of the Commission, either of whom may act, to develop, negotiate and finalize, with the advice of the Financial Advisor, Bond Counsel and the Commission's general counsel, the structure, terms and conditions of the TIFIA Series 2021 Bond and the Series 2021 Notes, including, without limitation, their series designations, dated dates, principal amounts, interest rates, maturity dates, redemption and prepayment provisions (if any), sales prices, and principal amounts in each maturity of each series, subject to the following parameters and conditions:

- (i) the TIFIA Series 2021 Bond and the Series 2021 Notes shall be issued in accordance with the form and requirements of the Master Indenture and the applicable Series Supplement (as finalized in accordance with the terms of this Resolution);
- (ii) the original principal amount of the TIFIA Series 2021 Bond shall not exceed \$818,000,000, subject to increase as set forth above;
- (iii) the interest rate on the TIFIA Series 2021 Bond or any sub-series thereof shall not exceed 3.25%, provided that, upon the occurrence and during the continuance of a payment default, the interest rate with respect to any overdue principal amount shall be the applicable default rate specified in the TIFIA Loan Agreement;
- (iv) the TIFIA Series 2021 Bond shall have a final maturity date not later than 40 years from the date of its issuance;
- (v) the principal amount of the Series 2021 Notes shall not exceed \$818,000,000;
- (vi) the Series 2021 Notes shall have a final maturity date not later than five years from their dated date; and
- (vii) the Series 2021 Notes shall bear interest at the interest rate or rates as shall be approved by the Executive Director or the Chair of the Commission, provided that the weighted average yield on the Series 2021 Notes, computed using the stated

interest rate or rates and the stated original offering price or prices on the Series 2021 Notes, cannot exceed the stated TIFIA interest rate as established above in clause (iii), and provided further that the weighted average yield on the Series 2021 Notes, computed using the stated interest rate or rates and the stated original offering price or prices on the Series 2021 Notes, shall not be greater than 3.75%.

4. The Bond Documents are approved; the Chair or Vice Chair of the Commission, either of whom may act (the "HRTAC Representative"), is authorized to execute and deliver the Bond Documents on the Commission's behalf, with such changes, insertions or omissions (not inconsistent with the parameters in Sections 2 and 3 above) as may be finalized by the Executive Director in accordance with the terms of this Resolution with the advice of the Financial Advisor, Bond Counsel and the Commission's general counsel. Such authorization and approval shall be evidenced conclusively by the execution and delivery of the finalized Bond Documents by the HRTAC Representative. Each HRTAC Representative and the Executive Director are appointed as the "Borrower's Authorized Representative" under the TIFIA Loan Agreement. The authorization in this paragraph includes any amendments or modifications to the Commission's 2019 TIFIA Loan Agreement, entered into in connection with the issuance of the Commission's \$500,789,463 TIFIA Series 2019A Bond, so as to conform the provisions of such instrument with the provisions of the TIFIA Loan Agreement with respect to the TIFIA Series 2021 Bond, including the amendment and restatement of such 2019 TIFIA Loan Agreement.

5. The Commission hereby appoints Citigroup Global Markets Inc., a member of the Commission's current underwriting pool, to serve as the senior managing underwriter for the sale of the Series 2021 Notes, together with any co-managers selected by the Executive Director, and authorizes the sale of the Series 2021 Notes to such underwriters by negotiated sale.

6. The Commission authorizes the distribution of the Preliminary Official Statement for the Series 2021 Notes, provided that the HRTAC Representative or the Executive Director, either of whom may act, is authorized to "deem final" such Preliminary Official Statement as of the date of its distribution, subject to the omission of final pricing information as permitted by the Municipal Securities Rule. Such officials are each individually further authorized to approve such completions, omissions, insertions and other changes to the Preliminary Official Statement, specifying the terms of the Series 2021 Notes, together with any other information required by law to reflect the terms of the sale of the Series 2021 Notes, the details thereof and the security therefor, as may be necessary or appropriate to complete it as a final Official Statement with respect to the Series 2021 Notes. The HRTAC Representative or the Executive Director, any of whom may act, is authorized to review, and certify as to the accuracy of, the information set forth in the Official Statement describing the Commission, the Series 2021 Notes or the security therefor. Such officials are each further authorized to execute the final Official Statement and deliver the same to the underwriters, and such execution and delivery shall constitute conclusive evidence that such Official Statement has been deemed a "final official statement" (as defined in the Municipal Securities Rule).

7. In order to provided limited credit support to the Commission's 2021 TIFIA toll revenue bond (the "2021 TIFIA Toll Revenue Bond"), authorized to be issued under the Commission's toll revenue master indenture and a first supplemental indenture thereto (together, the

"Toll Indenture"), the Commission authorizes HRTF Transfers from the General Fund as described in the Fifth Series Supplement and subject to their availability for such purpose, as follows:

- (A) For transfer and deposit to the TIFIA debt service reserve account established under the Toll Indenture, the initial funding of the debt service reserve requirement for the 2021 TIFIA Toll Revenue Bond, now estimated to be approximately \$24,000,000, but in no event to exceed \$32,000,000, such transfer and deposit to occur at the later of the substantial completion date of the project financed in part with proceeds of the 2021 TIFIA Toll Revenue Bond, or the date on which the Commission makes the first draw under the 2021 TIFIA Toll Revenue Bond;
- (B) For transfer and deposit to the toll revenue stabilization fund established under the Toll Indenture (i) an initial amount not greater than \$15,000,000, such transfer and deposit to occur at the later of the substantial completion date of the project financed in part with proceeds of the 2021 TIFIA Toll Revenue Bond, or the date on which the Commission makes the first draw under the 2021 TIFIA Toll Revenue Bond, and (ii) on an annual basis, an amount not greater than \$15,00,000 in any fiscal year to replenish any deficiencies in such toll revenue stabilization fund; and
- (C) For transfer and deposit to the major maintenance and renewal fund established under the Toll Indenture (i) the initial amount of \$5,000,000, such transfer and deposit to occur at the later of the substantial completion date of the project financed in part with proceeds of the 2021 TIFIA Toll Revenue Bond, or the date on which the Commission makes the first draw under the 2021 TIFIA Toll Revenue Bond, and (ii) such amounts as may be needed from time to time to restore any deficiency in such fund to its required amount, provided that the aggregate amount of all such HRTF Transfers made under this clause (ii) for deposit to the major maintenance and renewal fund shall not exceed a cumulative transfer cap equal to, as of any measurement date, the total of expected major maintenance and renewal fund permitted expenditures from such measurement date to the final maturity of obligations outstanding under the Toll Indenture, as estimated by the consulting engineer for the Hampton Roads Express Lanes and initially based, using an initial measurement date in Fiscal Year 2026, on a forecast of estimated life cycle maintenance costs with respect to the toll collection facilities and equipment needed for the toll roads system in its then-current state; such aggregate amount now estimated to be approximately \$160,000,000 but in no event an aggregate amount in excess of \$185,000,000 without further approval of the Commission;

HRTF Transfers are subject to the following provisions and restrictions:

- (W) The Executive Director is hereby delegated the authority to determine the final amounts to constitute HRTF Transfers, subject to the foregoing limits

and maximum authorized amounts, with the advice of the Commission's Financial Advisor and to maintain the minimum acceptable credit rating on the 2021 TIFIA Toll Revenue Bond;

- (X) HRTF Transfers are subject to reimbursement of such amounts to the Commission pursuant to the Toll Indenture;
- (Y) the Commission agrees to manage the use of HRTF revenues in the General Fund so as to provide for the availability of sufficient amounts in the General Fund to make the foregoing transfers as and when required, subject to the availability of HRTF revenues for such purpose; and
- (Z) HRTF Transfers are authorized only for so long as the 2021 TIFIA Toll Revenue Bond is outstanding, unless further approved by the Commission, and may only be expended as permitted by applicable law.

8. After the TIFIA Series 2021 Bond and the Series 2021 Notes are sold, (i) the HRTAC Representative is authorized and directed to take all necessary or proper steps to have such final obligations prepared in accordance with the terms of the Master Indenture and the respective Series Supplement and to execute the TIFIA Series 2021 Bond and the Series 2021 Notes by manual or facsimile signature, (ii) the Executive Director and the HRTAC Representative are authorized to countersign the TIFIA Series 2021 Bond and the Series 2021 Notes by manual or facsimile signature, and (iii) any such official is authorized to deliver the TIFIA Series 2021 Bond and the Series 2021 Notes to the applicable purchaser or underwriters upon receipt of the purchase price therefor.

9. The HRTAC Representative and the Executive Director, either of whom may act, is authorized and directed to execute, deliver and file all certificates and documents, and take all further action, as he or she may consider necessary or appropriate in accordance with the terms of this Resolution in connection with the issuance and sale of the TIFIA Series 2021 Bond and the Series 2021 Notes, including, without limitation, and with the advice of Bond Counsel, (a) execution and delivery of a certificate setting forth the expected use and investment of the proceeds of the Series 2021 Notes to show that such expected use and investment will not violate the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (the "Tax Code"), (b) making any elections that such officials deem desirable including but not limited to regarding payments of rebate to the United States, and (c) filing Internal Revenue Service Form 8038-G.

10. The Executive Director and the Commission's staff shall monitor and comply with applicable provisions of the Commission's Post-Issuance Compliance Policies and Procedures and the same may be amended and supplemented to conform to current requirements of the Municipal Securities Rule.

11. The Executive Director is authorized to utilize the State Non-Arbitrage Program of the Commonwealth of Virginia ("SNAP") in connection with the investment of proceeds of the

TIFIA Series 2021 Bond or the Series 2021 Notes, if the Executive Director determines, with the advice of the PFM Asset Management LLC or its successor, as investment advisor, that the utilization of SNAP is in the best interest of the Commission. The Commission acknowledges that the Treasury Board of the Commonwealth is not, and shall not be, in any way liable to the Commission in connection with SNAP, except as otherwise provided in the standard form SNAP Contract utilized by state and local governmental entities within the Commonwealth.

12. The Executive Director and the Commission's staff are further authorized to take such actions as may be necessary or appropriate to provide for the deposit and investment of funds to carry out the Commission's purposes in accordance with the Commission's adopted budget, the Master Indenture and the HRTAC Act, both prior to and following the issuance of the TIFIA Series 2021 Bond and the Series 2021 Notes, including, without limitation, by the funding of a reserve for administrative operating expenses, the provision for payment of debt service on the TIFIA Series 2021 Bond and the Series 2021 Notes, the establishment and replenishment of reserves, and the deposit and investment of the proceeds of the TIFIA Series 2021 Bond and the Series 2021 Notes and Commission revenues in the various funds and accounts established by the Master Indenture and the respective Series Supplement or any supplemental indenture. Any of such Series Supplement or supplemental indenture may have a different and additional numbered supplemental designation if necessary, desirable or in connection with the issuance of the TIFIA Series 2021 Bond or the Series 2021 Notes.

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

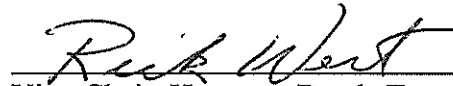
14. The Commission confirms the findings and determinations contained in the recitals to this Resolution setting forth the reason for the need to meet by electronic means without requiring members of the Commission to physically assemble at one location during the current declared state of emergency by the Governor of the Commonwealth arising from COVID-19.

15. This Resolution shall take effect immediately.

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



Chair, Hampton Roads Transportation
Accountability Commission



Vice-Chair, Hampton Roads Transportation
Accountability Commission