

RESOLUTION NO. 13325-20

A RESOLUTION TO AMEND THE COST ALLOCATION AGREEMENT BETWEEN THE CITIES OF CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, PORTSMOUTH, VIRGINIA BEACH AND THE TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS

WHEREAS, the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth and Virginia Beach (collectively, the "Participating Cities") and the Transportation District Commission of Hampton Roads ("HRT") are parties to the Cost Allocation Agreement, effectively dated October 1, 1999 ("Allocation Agreement").

WHEREAS, the Allocation Agreement, among its other provisions, defines how state and federal funding received by HRT is allocated to the Participating Cities for the capital and operating costs associated with acquiring, consolidating, rehabilitating, operating and expanding public transportation facilities and services for the Hampton Roads region.

WHEREAS, the Allocation Agreement currently requires HRT to distribute its eligible federal and state funding to each Participating Cities on a *pro rata* basis based on the annual cost to provide transit services and the level requested by each Participating City.

WHEREAS, the Hampton Roads Regional Transit Program and Fund ("Fund") was established pursuant to Virginia Code § 33.2-2600.1 for the purpose of helping to provide a modern, safe, and efficient core network of transit services across the Hampton Roads region. The Fund provides financial support for the development, maintenance, improvement, and operation of a core and connected regional network of transit routes and related infrastructure, rolling stock, and support facilities, to include the operation of a regional system of interjurisdictional, high-frequency bus service.

WHEREAS, the Fund is funded, in part, by real estate recordation taxes pursuant to Virginia Code § 58.1-816 ("Recordation Tax").

WHEREAS, prior to the establishment of the Fund, the City of Newport News received a portion of the Recordation Tax from the Commonwealth of Virginia.

WHEREAS, the loss of revenue from the reallocation of the Recordation Tax has created an ongoing financial burden on the City of Newport News.

WHEREAS, HRT may help all Participating Cities mitigate this adverse financial impact by strategically allocating its eligible state and federal funding.

WHEREAS, the current Allocation Agreement does not permit HRT to strategically allocate its state and federal funding amongst the Participating Cities.

WHEREAS, the Allocation Agreement may be amended, via a resolution from each Participating City, to permit HRT to strategically allocate its eligible state and federal funding.

WHEREAS, the City of Newport News desires to modify and amend the Allocation Agreement so that HRT may help mitigate adverse financial impacts to it and the other Participating Cities from the date of this Resolution until June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED FROM THE DATE OF THIS RESOLUTION UNTIL JUNE 30, 2021:

1. Beginning July 1, 2020 and continuing until June 30, 2021 (“Hold Harmless Period”), which corresponds with HRT’s fiscal year 2021, HRT is authorized to strategically allocate its available and eligible federal and state funding, to the City of Newport News in such a manner as to first offset the loss of recordation tax revenue to the City of Newport News as a result of Virginia Code § 58.1-816. During the Hold Harmless Period, the City of Newport News will support HRT as the transportation district in the Hampton Roads region to receive moneys from the Fund. The Fund shall, in accordance with all applicable statutes, be administered by the Hampton Roads Transportation Accountability Commission (“HRTAC”) for the purpose of the development, maintenance, and improvement of a core regional network of transit routes and related infrastructure, rolling stock, and support facilities with high frequency bus service in the Hampton Roads region.

2. During the Hold Harmless Period, the City agrees to modify the Allocation Agreement. Article IX, *Allocation of Revenues*, sections (D) and (E) shall be deleted and replaced as follows:

Article IX. Allocation of Revenues

[* * *]

D. Federal funds received to reimburse net eligible operating expenses will be strategically allocated to each Participating City. Eligible federal funds, in combination with eligible state funds, will be allocated on an annual basis, in such combinations and amounts to be determined by the Commission. Subject to the requirements of Article X, and in the event eligible federal funds are available, such funds will be allocated to the Participating Cities to offset any deficiencies between the estimated Local Share in each Participating City TSP and the actual Local Share determined by the Commission at the end of each of the fiscal year.

E. State funds received to reimburse net eligible operating expenses will be strategically allocated to each Participating City. Eligible state funds, in combination with eligible federal funds, will be allocated on an annual basis, in such combinations and amounts to be determined by the Commission. Subject to the requirements of Article X, and in the event eligible state funds are available, such funds will be allocated to the Participating Cities to offset any deficiencies between the estimated Local Share in each Participating City TSP and the actual Local Share determined by the Commission at the end of the fiscal year.

3. During the Hold Harmless Period, the City agrees to modify Article X, *Calculation of Local Share of Operating Costs*, of the Cost Allocation Agreement and add section (C) as follows:

Article X. Calculation of Local Share of Operating Costs

[* * *]

C. The fiscal year of the Commission shall begin on July 1 and conclude on June 30. On or before June 30, 2020, the Commission shall allocate available and eligible federal and state funding to each Participating City in such a manner as to first offset the loss of recordation tax revenue to a Participating City as a result of Virginia Code § 58.1-816. The offset amount for each Participating City will be equal to the amounts stated in the table attached to this Agreement as Exhibit 1 (“Recordation Offset”). The Recordation Offset for each Participating City shall be retained in full by the Commission and applied in its entirety to the budgeted total local share of Local Funds for that Participating City, as stated in the Participating City TSP for FY2021.

In the event the actual total local share of Local Funds is less than the budgeted total local share of Local Funds for a Participating City, after the application of the Recordation Offset, in FY2021 (“Surplus”), then such Surplus shall be refunded in full by the Commission to that Participating City on or before August 1, 2022.

In the event the actual total local share of Local Funds, exceeds the budgeted total local share of Local Funds for a Participating City, after the application of the Recordation Offset, in FY2021 (“Deficit”), then such Deficit shall be paid in full by the Participating City to the Commission on or before August 1, 2022.

As long as a Participating City receives a Recordation Offset from the Commission, such Participating City shall support the Commission as the transportation district in the Hampton Roads region to receive moneys from the Hampton Roads Regional Transit Program and Fund (Fund) established pursuant to Virginia Code § 33.2-2600, as may be amended from time to time.

4. Except for the obligation for the Commission to pay any surplus to the City of Newport News or the City to pay any deficit to the Commission by August 1, 2022, on July 1, 2021, all amendments to the Allocation Agreement contemplated by this Resolution shall automatically terminate, be deleted from the Allocation Agreement and of no further effect without the need of further action by any party to the Allocation Agreement.

5. That this resolution shall be in effect on and after the date of its adoption, June 9, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JUNE 9, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

EXHIBIT 1

LOCALITY	\$ RECORDATION OFFSET
Chesapeake	\$ 840,080.00
Hampton	\$ 189,392.00
Newport News	\$ 199,083.00
Norfolk	\$ 265,655.00
Portsmouth	\$ 132,871.00
Virginia Beach	\$ 1,536,886.00