



RESOLUTION #2468

- SUBJECT:** Approve the Amended and Restated Memorandum of Agreement Regarding the Annual Transit Investment from the 395 HOT Lanes
- WHEREAS:** In July 2012, the Virginia Department of Transportation (VDOT) and 95 Express Lanes, LLC entered into a comprehensive agreement under which the latter developed and now operates high-occupancy toll lanes (“HOT Lanes”) in the median of Interstate 95 between the Route 610 interchange and Turkeycock Run;
- WHEREAS:** In June 2017, VDOT and 95 Express Lanes, LLC amended and restated the comprehensive agreement to add in the median of Interstate 395 approximately eight miles of HOT Lanes between Turkeycock Run and the Washington D.C. Line (the “395 HOT Lanes”), resulting in a continuous and unified HOT Lanes facility along I-395/95;
- WHEREAS:** The amended and restated comprehensive agreement between VDOT and 95 Express Lanes LLC secured an annual payment of \$15 million per year, escalating by 2.5% per year, to fund multimodal projects along the I-395/95 Corridor, with the initial payment made upon service commencement of the 395 HOT Lanes in November 2019;
- WHEREAS:** The Commonwealth delegated the responsibility for selecting and administering multimodal projects funded through the payments to the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC), as reflected in the *Memorandum of Agreement Regarding the Annual Transit Investment from the 395 HOT Lanes* executed in January 2019 and branded as Commuter Choice on the I-395/95 Corridor;
- WHEREAS:** Projects funded under Commuter Choice on the I-395/95 Corridor must support goals identified in this memorandum of agreement, which are to (1) maximize person throughput and (2) implement multimodal improvements to (i) improve mobility along the corridor, (ii) support new, diverse travel choices and (iii) enhance transportation safety and travel reliability;
- WHEREAS:** According to the subsequent *Agreement between NVTC and PRTC for Distribution and Allocation of I-395 Annual Transit Investment Funds*, NVTC is responsible for Commuter Choice project evaluation; financing and financial management; compliance, including evaluation, reporting, and quality assurance; and providing information to the public;
- WHEREAS:** NVTC desires to make investment policies as consistent as possible between Commuter Choice on the I-395/95 Corridor and its complementary toll revenue-funded Commuter Choice program on the I-66 Corridor, and allow program

applicants flexibility to propose multimodal transportation improvements that confer substantial benefits to I-395/95 toll payers; and

WHEREAS: NVTC thus seeks to make the 50% cap on I-395/95 Corridor program funds that can be spent on transit operations measured over nine consecutive fiscal years rather than five, for consistency with the I-66 Corridor program's memorandum of agreement and to allow program applicants more flexibility to pursue funding for transit service improvements that support the program goals.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby approves the attached *Amended and Restated Memorandum of Agreement Regarding the Annual Transit Investment from the 395 HOT Lanes* and authorizes the executive director to execute the agreement on behalf of the Commission, subject to the Potomac and Rappahannock Transportation Commission and Commonwealth Transportation Board also approving the amendment.

Approved this 6th day of January 2022.



Matt de Ferranti
Secretary-Treasurer



Canek Aguirre
Chair