
AMENDMENT NO. 1
TO
SHARED FACILITIES AGREEMENT

BY AND BETWEEN

CAPITAL BELTWAY EXPRESS LLC,
a Delaware limited liability company

AND

95 EXPRESS LANES LLC,
a Delaware limited liability company

Dated as of December 9, 2014

AMENDMENT NO. 1 TO SHARED FACILITIES AGREEMENT, dated as of December 9, 2014 (this “Amendment”), entered into between Capital Beltway Express LLC, a Delaware limited liability company (the “CBE”), and 95 Express Lanes LLC, a Delaware limited liability company (the “95 Express”).

WITNESSETH:

WHEREAS, CBE has entered into the Amended and Restated Comprehensive Agreement Relating to the Route 495 Hot Lanes in Virginia Project, dated as of December 19, 2007 (as amended, supplemented and otherwise modified from time to time, the “ARCA”), with the Virginia Department of Transportation (“VDOT”), pursuant to which it is operating the Route 495 HOT Lanes in Virginia Project (the “Beltway Project”);

WHEREAS, 95 Express has entered into the Comprehensive Agreement Relating to the I-95 HOV/HOT Lanes Project (the “CA” and, together with the ARCA, the “Comprehensive Agreements”), with VDOT, pursuant to which it will operate the I-95 HOV/HOT Lanes Project (the “I-95 Project” and, together with the Beltway Project, the “HOT Lanes Projects”);

WHEREAS, CBE and 95 Express have entered into the Shared Facilities Agreement, dated as of July 31, 2012 (the “SFA”); and

WHEREAS, pursuant to Sections 4.1.1, 4.2.1 and 7.1 of the SFA, CBE and 95 Express desire to make certain amendments to the SFA to permit the Shared Facilities Operator to institute and operate an integrated toll violation billing system as part of the Shared Services under the SFA such that revenue derived from toll violations on the HOT Lanes Projects may be deposited into one deposit account prior to transfer to the appropriate designated revenue account of CBE or 95 Express, as the case may be.

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein, each of CBE and 95 Express hereby covenants and agrees as follows:

SECTION 1. *Definitions and Interpretation.*

(a) Capitalized terms used but not defined herein shall have the respective meanings set forth in Section 1.1 of the SFA.

(b) The rules of interpretation set forth in Section 1.2 of the SFA shall apply mutatis mutandis to this Amendment as if expressly set forth herein.

SECTION 2. *Amendments to the SFA.*

(a) Effective as of the date hereof, Section 4.1 of the SFA shall be amended by inserting the following at the end thereof:

“4.1.8 Integrated Toll Violation Billing System. (a) CBE and 95 Express may cause, the Shared Facilities Operator to institute and operate an integrated toll violation billing system (the “ITBS”) among the HOT Lanes Projects.

(b) To institute and operate the ITBS, CBE and 95 Express shall cause the Shared Facilities Operator to, at least once every twenty (20) days or within one (1) Business Day after a HOT Lanes Project's allocable portion of the toll violations revenue of the balance of the Consolidated Toll Violation Revenue Account (after taking into account any amounts deposited on such date of determination) equals \$250,000, cause such HOT Lanes Project's allocable portion of the toll violations revenue to be withdrawn from the Consolidated Toll Violation Revenue Account and deposited into such HOT Lanes Project's "Revenue Account", "Revenue Fund" or equivalent pursuant to its respective Financing Documents; provided that, pursuant to, and in accordance with, Sections 5.1 and 5.2 hereof, the Designated Representatives may from time to time determine and agree to protocols for allocation of toll violations revenue in the Consolidated Toll Violation Revenue Account between the HOT Lanes Projects and CBE and 95 Express shall cause the Shared Facilities Operator to follow such protocol.

(c) (i) As required by the Bank Agent as Instructing Controlling Party, CBE shall cause the segregated deposit account to be maintained in CBE's name (the "Consolidated Toll Violation Revenue Account"), subject to an account control agreement in form and substance satisfactory to the CBE Trustee (at the direction of the Instructing Controlling Party) (the "Control Agreement") and CBE hereby agrees to hold all funds from time to time deposited therein that are allocable to 95 Express in trust for 95 Express, as applicable. CBE shall execute and deliver, and shall cause the counterparties to the Control Agreement to execute and deliver, such amendments, consents and other documents that are required so that the Shared Facilities Operator has the right to direct the disposition of funds from the Consolidated Toll Violation Revenue Account without further direction from CBE, subject to the control of the CBE Trustee under the Amended and Restated Master Indenture of Trust, dated as of June 1, 2008, between the Capital Beltway Funding Corporation of Virginia, as issuer, and Wells Fargo Bank, National Association, as trustee (the "CBE Trustee"), as amended, supplemented and otherwise modified from time to time.

(ii) To the extent the Consolidated Toll Violation Revenue Account bears interest, all interest earnings shall be allocated to each HOT Lanes Project *pro rata* to its respective allocable portion of the toll violations revenue of the balance of the Consolidated Toll Violation Revenue Account for any calculation period.

(d) Each of CBE and 95 Express acknowledges and agrees that, for purposes of the ITBS (and not otherwise), their respective assets may be commingled in the Consolidated Toll Violation Revenue Account with the assets of each other Party."

(b) Effective as of the date hereof, Section 7.1 of the SFA shall be amended and restated to read as follows:

"Section 7.1. Amendments. No amendment or modification of this Agreement or the terms hereof shall (i) be valid or binding on either Party except by a writing duly executed by each of the Parties and (ii) be effective unless and until each Party shall have obtained any required Lender approval(s) pursuant to the terms of the relevant Financing Documents. In the case of CBE, the Parties agree that this

Agreement, as amended or modified in the manner and subject to the conditions herein provided, shall be considered a "Project Agreement" for purposes of the Amended and Restated Letter of Credit and Reimbursement Agreement dated as of December 14, 2010, as amended or modified from time to time in accordance with its terms, or any replacement thereof that is a Beltway Financing Document (notwithstanding any failure of this Agreement to be considered a "Project Agreement" thereunder), and no amendment or modification of this Agreement shall be effective unless CBE has certified to 95 Express that it has obtained approval from its Lenders to the extent required with respect to amendments or modifications to a "Project Agreement" thereunder."

SECTION 3. *Beltway Project Lender Approval.*

Pursuant to Section 7.1 of the SFA, CBE hereby certifies to 95 Express that it has obtained approval from its Lenders to the extent required with respect to this Amendment.

SECTION 4. *Effect on the SFA and Other Project Agreements.*

(a) Except as specifically amended above, the SFA and the other Project Agreements (as defined in the Comprehensive Agreements) shall remain in full force and effect and are hereby ratified and confirmed.

(b) The execution, delivery, and effectiveness of this Amendment shall be limited precisely as written and, except as expressly provided herein, shall not be deemed to (i) be a consent to any waiver or modification of any other term or condition of the SFA or any of the instruments or documents referred to therein; (ii) create, or be evidence of, alone or taken with any consent to, waiver or modification of, or other amendment of the provisions of the SFA or any of the instruments or documents referred to therein, a course of conduct; or (iii) prejudice any right or rights that either CBE or 95 Express may now have or may have in the future under or in connection with the SFA or any of the instruments or documents referred to therein.

SECTION 5. *Governing Law; Waiver of Jury Trial.* This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within the Commonwealth of Virginia. The Parties irrevocably waive the right to a jury trial with respect to any matter arising under or with respect to this Amendment.

SECTION 6. *Integration.* This Amendment, including, without limitation, the agreements referred to herein, embodies the entire understanding of the Parties and supersedes all prior negotiations, understandings, and agreements between them with respect to the subject matter hereof. The provisions of this Amendment may be waived, supplemented, or amended only by an instrument in writing signed by the Parties.

SECTION 7. *Counterparts.* This Amendment may be executed in counterparts, each of which when so executed and delivered shall be deemed an original and all of which together shall constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the Parties has caused this Amendment to be executed and delivered on its behalf by its authorized representative as of the date first above written.

CAPITAL BELTWAY EXPRESS LLC



By: _____

Name: **JENNIFER AUMENT**
Title: **PRESIDENT**

95 EXPRESS LANES LLC

By: 

Name: MICHAEL BURNETT
Title: MANAGER