

**AMENDMENT NO. 7 TO THE COMPREHENSIVE AGREEMENT RELATING TO
THE DOWNTOWN TUNNEL/MIDTOWN TUNNEL/MARTIN LUTHER KING
FREEWAY EXTENSION PROJECT**

THIS AMENDMENT NO. 7 TO THE COMPREHENSIVE AGREEMENT RELATING TO THE DOWNTOWN TUNNEL/MIDTOWN TUNNEL/MARTIN LUTHER KING FREEWAY EXTENSION PROJECT (this "Amendment") is made and entered into as of October 29, 2019, by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION (the "Department"), an agency of the Commonwealth of Virginia (the "Commonwealth"), the address of which is 1401 East Broad Street, Richmond, Virginia 23219; and ELIZABETH RIVER CROSSINGS OPCO, LLC, a Delaware limited liability company (the "Concessionaire"), the address of which is 152 Tunnel Facility Drive, Portsmouth, Virginia 23707. The Department and the Concessionaire are each herein referred to as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Department and the Concessionaire have entered into a Comprehensive Agreement Relating to the Downtown Tunnel/Midtown Tunnel/Martin Luther King Freeway Extension Project (the "Project"), dated as of December 5, 2011, as amended by Amendment No. 1 dated as of March 21, 2012, Amendment No. 2 dated as of April 13, 2012, Amendment No. 3 dated as of January 15, 2014, Amendment No. 4 dated as of January 31, 2014, Amendment No. 5 dated as of September 18, 2015, and Amendment No. 6 dated as of October 27, 2016, (as amended, the "Comprehensive Agreement"), pursuant to which the Department has granted to the Concessionaire a permit to (i) finance, develop, design, construct manage, operate, maintain, and improve the Project and (ii) establish, impose, charge, collect, use, and enforce payment of tolls and related charges;

WHEREAS, on December 5, 2011, the Parties executed an Escrow Agreement, also known as Exhibit D of the Comprehensive Agreement, which relates to the escrow of the Design Build and Financial Escrow Documents utilized by the Concessionaire for the Project;

WHEREAS, on June 2, 2017, the Concessionaire entered into a Multi Licensee Software Escrow Agreement and a Registration Agreement (Agreement Number 67636) with Cognizant Worldwide LTD and NCC Group Escrow Associates, LLC, relating only to the electronic toll collection system software Source Code Escrows utilized by the Concessionaire for the Project;

WHEREAS, the Department is not a party to Agreement Number 67636 and did not previously approve said Agreement prior to execution;

WHEREAS, the Parties now desire to amend the Escrow Agreement to include the electronic toll collection system software and Intelligent Transportation System (ITS) Source Code Escrows utilized by the Concessionaire for the Project to provide the Department with the right to access, inspect, and use the Source Code Escrows as required in Article 18 of the

Comprehensive Agreement;

WHEREAS, the Parties desire to clarify the responsibilities of the Concessionaire in relation to 23 CFR Part 650, Subpart E, the National Tunnel Inspection Standards (“NTIS”), promulgated by the U.S. Department of Transportation, Federal Highway Administration in 2015; and

WHEREAS, the Parties further desire to amend and clarify their respective rights and obligations under the Comprehensive Agreement, on the terms set forth in this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and in consideration of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties do hereby agree as follows.

1. **Definitions**. Each capitalized term used and not otherwise defined herein shall have the respective meanings assigned to such term in the Comprehensive Agreement.

2. **Amendment to Exhibit D (Escrow Agreement)**. Exhibit D to the Comprehensive Agreement is deleted in its entirety and replaced with the amended and restated form Escrow Agreement attached herein as **Attachment 1**, which is incorporated by reference into the Comprehensive Agreement. This amended and restated form Escrow Agreement shall be the form utilized for the storage of both the Design Build (D-B) and Financing Escrow Documents, and the Source Code Escrows associated with the electronic toll collection system software and the Intelligent Transportation System (ITS) utilized by the Concessionaire for the Project.

3. **Amendment to Section 9.04(d) (Inspection and Implementation)**. Section 9.04(d) is hereby amended by adding subsection 9.04(d)(iv) as follows:

(d) **Inspection and Implementation**.

(iv) In addition to the responsibilities previously described in this **Section 9.04(d)**, the Concessionaire shall conduct inspections, draft reports, compile load ratings, manage critical findings, report inventory and all other responsibilities required under National Tunnel Inspection Standards (“NTIS”), for all highway tunnels located on public roads, on and off Federal-aid highways, within the Project, in accordance with 23 CFR Part 650, effective 2015, or similar applicable standards subsequently promulgated by the U.S. Department of Transportation, Federal Highway Administration. The Concessionaire shall conduct said inspections and all other responsibilities required by NTIS as authorized by the Department, and shall provide the Department with a written report of the

findings of each inspection in accordance with NTIS, or subsequently adopted standards, and Department procedures. The Concessionaire shall be responsible for all costs associated with conducting and reporting said inspections to the Department.

4. Amendment to Section 18.02 (Public Records). Section 18.02(a) is hereby amended as follows:

Section 18.02 Public Records

(a) The Concessionaire acknowledges that any Work Product the Department owns and any document of which the Department obtains a copy that relates to the Project may be considered public records under the Virginia Public Records Act, Sections 42.1-76 through 42.1- 91 of the Code of Virginia or official records under the Virginia Freedom of Information Act, Sections 2.2-3700 through 2.2-3714 of the Code of Virginia, and as such may be subject to public disclosure. In the event of a request for disclosure of any such information, the Department will comply with Law. The Department recognizes that certain Work Product the Department owns, and certain documents of which the Department obtains a copy that relate to the Project, including Escrow Documents obtained under Section 18.05 and Section 18.06, may contain information exempt from disclosure under Section 2.2-3705.6(11) of the Code of Virginia, may constitute trade secrets as defined in the Uniform Trade Secrets Act, Sections 59.1-336 through 59.1-343 of the Code of Virginia, and may include confidential information which is otherwise subject to protection from misappropriation or disclosure, and the Department will keep such information confidential unless disclosure is required by Law. Should such records become the subject of a request for public disclosure, the Department will promptly notify the Concessionaire of such request and the date by which the Department anticipates responding and will consider the objections received from the Concessionaire in advance of such date.

5. Amendment to Section 25.05 (Notices). Section 25.05(a) is hereby amended as follows:

If to the Concessionaire:
Elizabeth River Crossings Opco LLC
152 Tunnel Facility Drive
Portsmouth, VA 23707
Attention: Chief Executive Officer
Facsimile: (757) 257-0089

6. Amendment to Section 9.08 (Annual Budget). Section 9.08(a) is hereby amended as follows:

Section 9.08 Annual Budget

(a) For each Agreement Year and partial Agreement Year from and after the Existing Project Assets Tolling and O&M Work Commencement Date, the Concessionaire will file with the Department an annual budget for the Project for such full or partial Agreement Year at least 30 Days prior to the start thereof (an "Annual Budget"), provided that those changes and additions made by the Department, which are consistent with the standards and requirements of the Comprehensive Agreement pursuant to Section 9.04(c), are reflected in the Annual Budget filed by the Concessionaire. Each Annual Budget will be in a form reasonably acceptable to the Department and show in reasonable detail in respect of such full or partial Agreement Year:

(i) projected Gross Revenues;

(ii) projected operating costs, including all amounts payable to the Department or required to be deposited to the Handback Reserve Fund hereunder;

(iii) projected maintenance expenses, including the costs of Major Maintenance activities to be performed pursuant to the Life Cycle Maintenance Plan;

(iv) projected debt service and other amounts payable with respect to Concessionaire Debt, including deposits to reserve funds held for benefit of the Project Lenders; and

(v) projected Distributions.

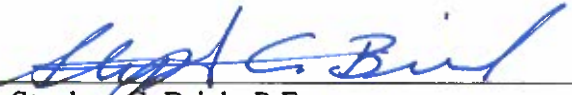
7. No Modification. This Amendment is limited to the matters set forth herein and shall not constitute a modification or waiver of any other provision of the Comprehensive Agreement.

8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State. Venue for any legal action arising out of this Amendment shall lie in the Circuit Court in the City of Richmond, Virginia, Division I.


[Remainder of the page intentionally left blank. Signatures follow.]

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Amendment on the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: 
Stephen C. Brich, P.E.
Commissioner of Highways

ELIZABETH RIVER CROSSINGS OPCO, LLC

By: 
Name: Douglas R. Wilson
Title: CEO

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Amendment on the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____
Stephen C. Brich, P.E.
Commissioner of Highways

ELIZABETH RIVER CROSSINGS OPCO, LLC

By: Diane Shields

Name: Diane Shields

Title: Director of Capital Expenditures
and O&M Support.

ATTACHMENT 1

Amended Exhibit D – Amended and Restated Escrow Agreement

AMENDED EXHIBIT D

AMENDED AND RESTATED ESCROW AGREEMENT

This **AMENDED AND RESTATED ESCROW AGREEMENT** ("Escrow Agreement") is made and entered into as of October 29, 2019 by and among the **VIRGINIA DEPARTMENT OF TRANSPORTATION** (the "Department"), an agency of the Commonwealth of Virginia, **ELIZABETH RIVER CROSSINGS OPCO, LLC** (the "Concessionaire"), a Delaware limited liability company, and **SUNTRUST BANK** (the "Escrow Agent"), a Georgia banking corporation (the Department, Concessionaire and Escrow Agent are herein referred to collectively as the "Parties").

RECITALS

WHEREAS, the Department and the Concessionaire have entered into a Comprehensive Agreement Relating to the Downtown Tunnel/Midtown Tunnel/Martin Luther King Freeway Extension Project (the "Project"), dated as of December 5, 2011, as amended by Amendment No. 1 dated as of March 21, 2012, Amendment No. 2 dated as of April 13, 2012, Amendment No. 3 dated as of January 15, 2014, Amendment No. 4 dated as of January 31, 2014, Amendment No. 5 dated as of September 18, 2015, and Amendment No. 6 dated as of October 27, 2016, (as amended, the "Comprehensive Agreement"), pursuant to which the Department has granted to the Concessionaire a permit to (i) finance, develop, design, construct, manage, operate, maintain and improve the Project and (ii) establish, impose, charge, collect, use and enforce payment of tolls and related charges;

WHEREAS, pursuant to Section 18.05 of the Comprehensive Agreement, the Concessionaire is required to submit to the Department the D-B Escrow Documents and the Financing Escrow Documents (collectively, the "Escrow Documents");

WHEREAS, pursuant to Section 18.06 of the Comprehensive Agreement, the Concessionaire is required to establish an escrow for Concessionaire to deposit certain Source Code, Source Code Documentation, and all related documentation, including all relevant commentary, explanations and other documentation, as well as instructions to compile such Source Code and Source Code Documentation, and all modifications, additions, or substitutions made to such Source Code, Source Code Documentation and related documentation (the "Source Code Escrows" and, together with the Escrow Documents, the "Escrow Materials");

WHEREAS, the Parties entered into an Escrow Agreement, dated December 5, 2011 (the "Original Escrow Agreement"), pursuant to which the Department and the Concessionaire appointed the Escrow Agent to act as escrow agent thereunder in the manner set forth therein, and the Escrow Agent accepted such appointment; and

WHEREAS, the Department and the Concessionaire have requested that the Escrow Agent enter into this Escrow Agreement to amend and restate the Original Escrow Agreement to provide for the deposit of the Source Code Escrows and to add the additional provisions set forth herein; the Escrow Agent has agreed to such request.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and in consideration of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties do hereby agree as follows.

ARTICLE 1.

DEFINITIONS AND ORDER OF PRECEDENCE

Section 1.01 Definition

Capitalized terms used but not otherwise defined in this Escrow Agreement have the respective meanings set forth in the Comprehensive Agreement.

Section 1.02 Order of Precedence

In the event of any conflict, ambiguity or inconsistency between the provisions of the Comprehensive Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail.

Section 1.03 No Effect on Comprehensive Agreement

Nothing in this Agreement amends or modifies any of the Concessionaire's or the Department's obligations under the Comprehensive Agreement.

ARTICLE 2.

ESCROW ARRANGEMENTS

Section 2.01 Appointment of Escrow Agent

The Concessionaire and the Department hereby appoint the Escrow Agent to serve as escrow agent hereunder, and the Escrow Agent hereby accepts such appointment, subject to the terms and conditions set forth in this Escrow Agreement. The Escrow Agent shall hold, manage, provide access to and dispose of the Escrow Materials in accordance with the terms hereof.

Section 2.02 Deposit of Escrow Materials

In accordance with Sections 18.05 and 18.06 of the Comprehensive Agreement, the Department (or, at the request of the Department, the Concessionaire) shall deliver and deposit with the Escrow Agent the Escrow Materials in the same sealed containers in which the Concessionaire delivered the Escrow Materials to the Department, which containers shall not have been opened or the contents thereof altered or modified in any way by the Department or any other person. The Escrow Agent shall provide to each Party written acknowledgment of the receipt of the Escrow Materials, and any subsequent additions or modifications to the Escrow Materials, promptly upon receipt thereof. The Escrow Agent is not required to take notice of the

Escrow Materials or the contents thereof, which the Escrow Agent shall hold only for custodial purposes.

At any time before or after the applicable Service Commencement Date, the Concessionaire shall deliver and deposit with the Escrow Agent any Source Code Escrows and any modifications, additions, or substitutions made to such Source Code Escrows no less than one time per calendar year. The Escrow Agent shall provide to the Department and the Concessionaire written acknowledgement of the receipt of the Source Code Escrows, and any subsequent additions or modifications to the Source Code Escrows, promptly upon receipt thereof. The Escrow Agent is not required to take notice of the Source Code Escrows or the contents thereof, which the Escrow Agent shall hold only for custodial purposes.

Upon delivering any Escrow Materials to the Escrow Agent, the delivering Party shall designate whether the Escrow Materials are D-B Escrow Documents, Financing Escrow Documents, or Source Code Escrows. The Escrow Agent shall not be required to review any of the Escrow Materials delivered to it and shall be entitled to conclusively rely upon without inquiry the designation assigned to such Escrow Materials by the delivering Party.

Section 2.03 Ownership; Use and Review of Escrow Materials

The Parties hereby acknowledge and agree that the Escrow Documents are, and shall always be, the property of the Concessionaire. The Concessionaire represents and warrants to the Escrow Agent and the Department that the developers of the Source Code Escrows (the "Source Code Owners") have granted to the Concessionaire licenses to use the Source Code Escrows and that the Concessionaire has full right, title and authority to deliver the Source Code Escrows to the Escrow Agent to hold and administer in accordance with the terms of this Escrow Agreement.

The Escrow Agent shall provide prompt access to the Escrow Materials upon receipt by it of a written notice requesting such access signed by the Department or the Concessionaire together with the written statement of the Department or the Concessionaire referred to below in this Section 2.03 if requested by the Escrow Agent; provided, that the Department, prior to making such request, has given a minimum of 24 hours written notice to the Concessionaire, and the Concessionaire, prior to making such request, has given a minimum of 24 hours written notice to the Department. The Escrow Agent shall not permit access to the Escrow Materials to any person other than duly authorized representatives of the Department and the Concessionaire identified in the applicable Party's notice provided pursuant to this Section 2.03. The Escrow Agent shall be entitled to assume conclusively and without inquiry that any person identified in any such notice is a duly authorized representative of the Department or the Concessionaire, as applicable, and is entitled to access to the Escrow Materials pursuant to this Escrow Agreement and the Comprehensive Agreement and that any such examination or review will be made for the purposes and in accordance with the provisions set forth in Sections 18.05 and 18.06 of the Comprehensive Agreement. For purposes of certainty, authorized representatives of the Concessionaire shall include designated representatives of the Design-Build Contractor. Such authorized representatives of the Concessionaire and the Department shall be entitled to conduct examinations and reviews of the Escrow Materials for the purposes and in accordance with the provisions set forth in Sections 18.05 and 18.06 of the Comprehensive Agreement. As a condition to allowing access to the Escrow Materials, the Escrow Agent shall be entitled to receive and to conclusively rely upon without inquiry, as applicable, (i) a written statement from the Concessionaire that the persons named therein who are to have access to the Escrow Materials are

duly authorized representatives of the Concessionaire, are entitled to access the Escrow Materials pursuant to this Escrow Agreement and the Comprehensive Agreement and that the Concessionaire has given the Department at least 24 hours prior written notice of its request for access to the Escrow Materials; or (ii) a written statement from the Department that the persons named therein who are to have access to the Escrow Materials are duly authorized representatives of the Department, are entitled to access to the Escrow Materials pursuant to this Escrow Agreement and the Comprehensive Agreement and that the Department has given the Concessionaire at least 24 hours prior written notice of its request for access to the Escrow Materials.

Section 2.04 Release and Return of Escrow Materials

(a) The Escrow Agent shall hold the Escrow Materials in its possession at its offices in Richmond, Virginia until directed to deliver such Escrow Materials upon receipt of a written certification delivered pursuant to Section 2.04(b), (c) or (d) below or a final adjudication, as applicable, whereupon the Escrow Agent shall deliver the appropriate Escrow Materials to the Concessionaire.

(b) The Escrow Agent shall release the D-B Escrow Documents to the Concessionaire upon receipt by the Escrow Agent of a certification from the Concessionaire and the Department stating that the Project has achieved Final Acceptance, final payment has been made to the Design-Build Contractor, and all claims or disputes arising under or related to the Design-Build Contract have been fully and finally resolved and/or adjudicated.

(c) The Escrow Agent shall release the Financing Escrow Documents to the Concessionaire upon receipt by the Escrow Agent of a certification from the Concessionaire and the Department stating that the Comprehensive Agreement has terminated in accordance with the provisions thereof and all claims or disputes arising under or related to the Comprehensive Agreement have been fully and finally resolved and/or adjudicated.

(d) The Escrow Agent shall release the Source Code Escrows to the Concessionaire upon receipt by the Escrow Agent of a certification from the Concessionaire and the Department stating that the Comprehensive Agreement has terminated in accordance with the provisions thereof and all claims or disputes arising under or related to the Comprehensive Agreement have been fully and finally resolved and/or adjudicated.

Section 2.05 Termination

This Escrow Agreement shall continue in effect and shall automatically terminate at such time as all Escrow Materials are released to the Concessionaire as provided in Section 2.04 hereof. It is agreed and understood that in the event of disagreement between the Parties hereto or any Source Code Owners, the Escrow Agent will, and does, reserve the right to hold the Escrow Materials in its possession, and all papers in connection with or concerning this escrow, until mutual agreement has been reached between the Parties and the Source Code Owners, if applicable, or until delivery thereof is ordered pursuant to a final disposition reached pursuant to the dispute resolution provisions of Article 21 of the Comprehensive Agreement. The Escrow Agent shall not be or become liable in any way or to any Party, any Source Code Owner or any other person or entity for its continuing to hold the Escrow Materials and all other such papers in

its possession until receipt of such mutual agreement of the Parties and the Source Code Owners, as applicable, or such final disposition. If a release is ordered in connection with a final disposition reached pursuant to the dispute resolution provisions of Article 21 of the Comprehensive Agreement, the Escrow Agent shall be entitled to receive and to rely conclusively upon an opinion from counsel to the Party who delivers a copy of such final disposition to the effect that such final disposition has been reached pursuant to the dispute resolution provisions of Article 21 of the Comprehensive Agreement and satisfies the requirements of this Escrow Agreement and the Comprehensive Agreement. The Escrow Agent shall be fully protected and shall incur no liability to any Party or any Source Code Owner or any other person or entity in connection with a release of Escrow Material pursuant to any such final disposition or otherwise in accordance with this Escrow Agreement.

ARTICLE 3.

ESCROW AGENT

Section 3.01 Liability of Escrow Agent

The Escrow Agent shall have no responsibility to any person in connection with this Escrow Agreement, except as specifically provided, and shall not be responsible for anything done or omitted to be done by it except for its own gross negligence or willful default in the performance of any obligation imposed on it hereunder. Unless specifically provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the other Parties with respect to arrangements or contracts with others, the Escrow Agent's sole duty hereunder being to safeguard the Escrow Materials and to dispose of and deliver the same in accordance with this Escrow Agreement. No provision of this Escrow Agreement shall require the Escrow Agent to risk or advance its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement. In no event shall the Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. If the Escrow Agent is called upon by the terms of this Escrow Agreement to determine the occurrence of any event or contingency, the Escrow Agent may request from the other Parties or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire and consult with the other Parties, among others, at any time. The Escrow Agent may request an opinion of counsel for a determination of any legal issue which might arise in the performance of its duties hereunder and such opinion of counsel shall be full and complete authorization for any action taken, suffered or omitted by the Escrow Agent in reliance thereon and the Concessionaire shall pay the reasonable fees and expenses of such counsel. The Escrow Agent shall in no event be deemed to be a fiduciary to any Party or any other person or entity under this Escrow Agreement. The permissive rights of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties. In carrying out its duties and obligations under the terms of this Escrow Agreement, the Escrow Agent shall be protected in acting upon any written instruction, notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other paper or document which the Escrow Agent in good faith

believes to be genuine and what it purports to be, including, but not limited to, items requesting or authorizing release, disbursement or retainage of the subject matter of this Escrow Agreement and items amending the terms of the Escrow Agreement.

The Escrow Agent shall not be obligated to take any legal action or to commence any proceedings in connection with this Escrow Agreement or any property held hereunder or to appear in, prosecute or defend in any such legal action or proceedings. This Escrow Agreement sets forth exclusively the duties of the Escrow Agent with respect to any and all matters pertinent hereto which duties are purely ministerial in nature and no implied duties or obligations shall be read into this Escrow Agreement against the Escrow Agent. No other agreement entered into between the Department and the Concessionaire, or either of them with any other person or entity, including, without limitation, the Comprehensive Agreement, shall be considered as adopted or binding, in whole or in part, upon the Escrow Agent notwithstanding that any such other agreement may be deposited with the Escrow Agent or the Escrow Agent may have knowledge thereof.

Section 3.02 Payment of Escrow Agent

(a) The Escrow Agent acknowledges receipt of good and valuable consideration for the services rendered or to be rendered by it pursuant to this Escrow Agreement. The Concessionaire shall pay the Escrow Agent's reasonable fees and expenses in connection with the performance of its duties under this Escrow Agreement. The annual administrative fee is \$2,500.00 shall be payable at signing by the Concessionaire or within 30 days of receipt of an invoice from the Escrow Agent. The Escrow Agent and the Concessionaire acknowledge and agree that the Department shall have no liability in respect of any fees or expenses of the Escrow Agent.

(b) The Concessionaire agrees to indemnify, defend and hold harmless the Escrow Agent and each of the Escrow Agent's officers, directors, agents and employees (the "Indemnified Parties") from and against any and all losses, liabilities, claims by the Concessionaire, the Department, any Source Code Owner or any other person or entity, damages, expenses and costs (including, without limitation, attorneys' fees and expenses) of every nature whatsoever (collectively, "Losses") which any such Indemnified Party may incur and which arise directly or indirectly from this Escrow Agreement or which arise directly or indirectly by virtue of the Escrow Agent's undertaking to serve as Escrow Agent hereunder; provided, however, that no Indemnified Party shall be entitled to indemnity with respect to Losses that have been finally adjudicated by a court of competent jurisdiction to have been directly caused by such Indemnified Party's gross negligence or willful misconduct.

(c) The provisions of this Section 3.02 shall survive the termination of this Escrow Agreement and any resignation or removal of the Escrow Agent.

Section 3.03 Resignation and Replacement of Escrow Agent

The Escrow Agent may resign, and thereby become discharged from the duties and obligations hereby created, by written notice given to the Department and the Concessionaire, not less than 15 days before such resignation shall take effect. Such resignation shall take effect immediately, however, upon the earlier appointment of a new Escrow Agent hereunder and

acceptance of the duties hereunder. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed and the Escrow Materials have been properly transferred to the successor Escrow Agent. In the event of the resignation of the Escrow Agent prior to the expiration of this Escrow Agreement, the Escrow Agent shall rebate to the Concessionaire a ratable portion of any prepaid fee theretofore paid by the Concessionaire to the Escrow Agent for its services hereunder. After any notice of resignation of the Escrow Agent, the Concessionaire shall undertake to appoint a replacement Escrow Agent on terms reasonably acceptable to the Concessionaire and the Department.

ARTICLE 4.

GENERAL PROVISIONS

Section 4.01 Address for Notices

(a) Whenever under the provisions of this Escrow Agreement it will be necessary or desirable for one Party to serve any approval, notice, request, demand, report or other communication on another Party, the same will be in writing and will not be effective for any purpose unless and until actually received by the addressee or unless served (i) personally, (ii) by independent, reputable, overnight commercial courier, (iii) by facsimile transmission, where the transmitting Party includes a cover sheet identifying the name, location and identity of the transmitting Party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page), where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and where the facsimile transmission is immediately followed by service of the original of the subject item in another manner permitted herein or (iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the Department:

Virginia Department of Transportation
1401 E. Broad Street
Richmond, VA 23219
Attention: Chief Engineer
Facsimile: (804) 786-2940

With copies to:

Virginia Department of Transportation
Hampton Roads District Office
7511 Burbage Drive
Suffolk, VA 23435
Attention: District Engineer
Facsimile: (757) 686-5132

Office of the Attorney General

202 North 9th Street
Richmond, VA 23219
Attention: Chief Transportation Section
Facsimile: (804) 786-9136

If to the Concessionaire:

Elizabeth River Crossings Opco, LLC
152 Tunnel Facility Drive
Portsmouth, VA 23707
Attention: Chief Executive Officer
Facsimile: (757) 257-0089

If to the Escrow Agent:

SunTrust Bank
Attn: Escrow Services
919 East Main Street, 5th Floor
Richmond, Virginia 23219
Client Manager: Charles Henderson, Assistant Vice President
Phone: 804-782-7087
Facsimile: 804-225-7141
Email: Charles.Henderson@SunTrust.com

(b) Any Party may, from time to time, by notice in writing served upon the other Parties as aforesaid, designate an additional and/or a different mailing address or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally will be deemed delivered upon receipt, if served by mail or independent courier will be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the United States Postal Service or independent courier, and if served by facsimile transmission will be deemed delivered on the date of receipt as shown on the received facsimile (provided, that the original is thereafter delivered as aforesaid).

Section 4.02 Successors and Assigns

This Escrow Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns. The Department and the Escrow Agent hereby consent to the collateral assignment (the "Assignment") of this Escrow Agreement in whole by the Concessionaire to the Collateral Agent as security for the performance of the Concessionaire's obligations under the Project Financing Agreements. Pursuant to the Assignment, the Collateral Agent and its designee or assignee shall have the right to assume the benefits and obligations of the Concessionaire under this Escrow Agreement. In the event that the Collateral Agent or such designee or assignee exercise such right by notice to the Escrow Agent, as of the

date of such assumption of benefits and obligations of the Concessionaire hereunder, the Collateral Agent may, in connection with any default under any Project Financing Agreement, assign any rights assigned to it hereunder to any other entity. However, anything herein to the contrary notwithstanding, the Escrow Agent shall have no obligation to any successor or assign and shall not be required to take notice of any such assignment and shall have no obligation in performing this Escrow Agreement or otherwise to recognize any successor or assign of the Concessionaire unless the Escrow Agent receives clear, authoritative and conclusive written evidence of the change of Party together with a written assumption of the obligations of the Concessionaire, including, without limitation, the obligations under Section 3.02, by the successor or assign in form and substance reasonably acceptable to the Escrow Agent and any information requested by the Escrow Agent with respect to the successor or assign to enable the Escrow Agent to satisfy the requirements of the customer identification program under the USA PATRIOT Act.

Section 4.03 Counterparts

This Escrow Agreement may be executed in several counterparts each of which shall be an original and all of which together shall constitute one and the same instrument.

Section 4.04 Waiver

(a) Any term of this Escrow Agreement may be waived by the Party entitled to the benefits thereof, provided that any such waiver must be in writing and signed by the Party against whom the enforcement of the waiver is sought. No waiver of any condition, or breach of any provision of this Escrow Agreement, in any one or more instances, shall be deemed to be a further or continuing waiver of such condition or breach. Delay or failure to exercise any right or remedy shall not be deemed the waiver of that right or remedy.

(b) Nothing in this Escrow Agreement shall be deemed in any manner to be a waiver of sovereign immunity of the Department.

Section 4.05 Benefits of Agreement; Amendments

(a) This Escrow Agreement is made for the benefit of the Indemnified Parties, the Escrow Agent, the Concessionaire and the Department.

(b) This Escrow Agreement shall not be amended without the prior written consent of the Concessionaire, the Department and the Escrow Agent.

Section 4.06 Severability

In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 4.07 Prior Contracts Superseded

This Escrow Agreement constitutes the sole agreement of the Parties hereto with respect

to the subject matter set forth herein and supersedes any prior understandings or written or oral contracts between the Parties respecting such subject matter.

Section 4.08 Effect of Breach

Without prejudice to any rights a Party may otherwise have, a breach of this Escrow Agreement shall not of itself give rise to a right to terminate the Comprehensive Agreement.

Section 4.09 No Third-Party Beneficiaries

Nothing contained in this Escrow Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward, any person or entity that is not a Party or an Indemnified Party.

Section 4.10 No Partnership

Nothing contained in this Escrow Agreement shall be deemed to constitute a partnership between the Parties hereto. None of the Parties shall hold itself out contrary to the terms of this Section 4.10.

Section 4.11 Governing Law

This Escrow Agreement 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 State. Venue for any legal action arising out of this Agreement shall lie in the Circuit Court in the City of Richmond, Virginia, Division I.


Section 4.12 Certificate of Incumbency

Contemporaneously with the execution and delivery of this Escrow Agreement and, if necessary, from time to time thereafter, each of the Parties hereto (other than the Escrow Agent) shall execute and deliver to the Escrow Agent a Certificate of Incumbency substantially in the form of Exhibit A hereto (a "Certificate of Incumbency"), for the purpose of establishing the identity and authority of persons entitled to issue notices, instructions or directions to the Escrow Agent on behalf of each such party. Until such time as the Escrow Agent shall receive an amended Certificate of Incumbency replacing any Certificate of Incumbency theretofore delivered to the Escrow Agent, the Escrow Agent shall be fully protected in relying, without further inquiry, on the most recent Certificate of Incumbency furnished to the Escrow Agent. Whenever this Escrow Agreement provides for joint written notices, joint written instructions or other joint actions to be delivered to the Escrow Agent, the Escrow Agent shall be fully protected in relying, without further inquiry, on any joint written notice, instructions or action executed by persons named in such Certificate of Incumbency.


[Remainder of the page intentionally left blank. Signatures follow.]

IN WITNESS WHEREOF, the Parties have caused this Escrow Agreement to be executed by their duly authorized representatives as of the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION
an agency of the Commonwealth of Virginia

By: 
Stephen C. Brich, P.E.
Commissioner of Highways

ELIZABETH RIVER CROSSINGS OPCO, LLC
a Delaware limited liability company

By: 
Name: Douglas R. Wilson
Title: CEO

SUNTRUST BANK
a Georgia banking corporation


By: 
Name: Charles Henderson
AVP
Title: _____

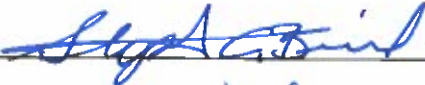

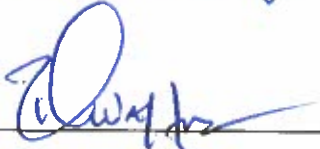

EXHIBIT A

***Certificate of Incumbency
(List of Authorized Representatives)***

Re: Escrow Agreement dated October 29, 2019 among SunTrust Bank, Elizabeth River Crossings, OPCO, LLC and Virginia Department of Transportation

Client Name: Virginia Department of Transportation

As an Authorized Officer of the above referenced entity, I hereby certify that the each person listed below is an authorized signor for such entity, and that the title and signature appearing beside each name is true and correct.

<u>Name</u>	<u>Title</u>	<u>Signature</u>	<u>Telephone No.</u>
Stephen C. Brich, P.E.	Commissioner of Highways		804-786-4798
Barton Thrasher, P.E.	Chief Engineer		804-786-4798
Richard L. Walton	Chief of Policy		804-786-2703
Laura Farmer	Acting Chief Financial Officer		804-786-3096

IN WITNESS WHEREOF, this certificate has been executed by the duly authorized officer whose name and title are set forth below:

By: 

Title: Commissioner of Highways

Date: 10/29/2019