

**RESOLUTION NO.** 13630-23

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”); and

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; and

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

WHEREAS, HRT may provide greater budgetary certainty to all Participating Cities through strategic allocation of its eligible state and federal funding; and

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

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; and

WHEREAS, the City of Newport News desires to temporarily 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, 2024;

WHEREAS, HRT and other Participating Cities have represented that Article IX, Allocation of Revenues, sections (D) and (E) are not deleted permanently but suspended between July 1, 2023 and June 30, 2024 and the City of Newport News has relied upon this representation; and

WHEREAS, the City of Newport News’ approval of this amendment is conditioned upon Article IX, Allocation of Revenues, sections (D) and (E) being suspended one year and returning to effect on July 1, 2024;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. Beginning July 1, 2023 and continuing until June 30, 2024 (“Effective Period”), which corresponds with HRT fiscal year 2024, HRT is authorized to strategically allocate its available and eligible federal and state funding, to the City of Newport News.

2. During the Effective 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 Effective Period, the City agrees to modify Article X, Calculation of Local Share 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. 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 Commission has strategically allocated federal and state funds in FY 2024 ("Surplus"), then such Surplus shall be refunded in full by the Commission to that Participating City on or before August 1, 2025.

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 Commission has strategically allocated federal and state funds in FY2024 ("Deficit"), then such Deficit shall be paid in full by the Participating City to the Commission on or before August 1, 2025.

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 for FY2024, all amendments to the Allocation Agreement contemplated by this Resolution shall automatically terminate on July 1, 2024, 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 July 1, 2023.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON MAY 9, 2023

Mabel Washington Jenkins, MMC  
City Clerk

Phillip D. Jones  
Mayor

A true copy, teste:

City Clerk